

ATTACHMENTS UNDER SEPARATE
COVER

ORDINARY COUNCIL MEETING
11 FEBRUARY 2020



PORT STEPHENS
C O U N C I L

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PORT STEPHENS COUNCIL

DEVELOPMENT ASSESSMENT REPORT

APPLICATION DETAILS

Application Number	16-2019-270-1
Development Description	Demolition of existing buildings and construction of a new single storey dwelling
Applicant	MS V SOLOMOU
Date of Lodgement	30/04/2019
Value of Works	\$300,000.00

Development Proposal

The application proposes the demolition of the existing structures and construction of a new single storey dwelling and carport/garage. The proposed single storey dwelling is designed to be similar in style and proportions to a traditional cottage with a hipped roof, verandah, and timber cladding. The dwelling will also be separated into pavilions to reduce the scale as viewed from the street. A double carport/garage will be located at the rear of the property.

PROPERTY DETAILS

Property Address	862 Paterson Road WOODVILLE
Lot and DP	LOT: 510 DP: 1150491
Zoning	RU1 PRIMARY PRODUCTION
Site Constraints	<i>Flooding and drainage, heritage, dwelling entitlement,</i>

Site Inspection

A site inspection was carried out on **14 May 2019**. The site can be seen in the photographs below. The subject site has a total area of 723 m², is generally flat and is zoned RU1 Primary Production. Access to the site is direct from Paterson Road.

The subject site is surrounded by similarly zoned RU1 lots, with the exception of the Iona Public School which is zoned SP2 - Special Activities. The lot sizes (with dwellings) in the immediate vicinity range from 232,960 m² to 5000 m².

The subject site currently contains a dwelling towards the front of the site and a Colorbond shed with an older shed and an outbuilding to the rear. The current dwelling on the site is in very poor condition and is considered structurally unsound.

Site Photos:



Photo 1: View of Cottage from Clarence Town Road



Photo 2: View of Cottage from Clarence Town Road

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Photo 3: View of Colorbond Shed to be removed



Photo 4: View of Cottage looking West

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REFERRALS

The proposed development was referred to the following internal specialists and external agencies. The comments provided by the special staff and external agencies have been used to carry out the assessment against the S4.15 Matters for Consideration below.

i) Planning and Developer Relations

The application was referred to the Planning and Developer Relations team within Council to ensure that the subject lot benefitted from dwelling entitlement. The referral advised that the subject lot would benefit from dwelling entitlement in accordance with 4.2B of the LEP. As such, this application has been supported unconditionally by the Planning and Developer Relations Team.

ii) Drainage and Flooding Engineers

*The application was referred to the Drainage and Flooding Engineers within Council as the subject site is fully located within the **low hazard flood fringe category**. This referral provided comments relating to finished floor level requirements, egress requirements, and other flood related matters. The application was supported by the Drainage and Flooding Engineers subject to conditions. These conditions have been adopted and proposed for the consent.*

iii) Strategic Planning – Heritage Officer

The application was referred to the Strategic Planning Team, who engaged a heritage officer to conduct the referral. This application was referred as the dwelling to be demolished is a locally listed Archaeological site in the LEP - this site is specifically known as Pomfretts Cottage. Council's heritage consultant assessed the application against the LEP, DCP, and relevant heritage legislation. On the basis of the assessment, the Heritage Officer has supported the application subject to conditions. This condition has been adopted and proposed for the consent.

Note: Further details relating to the above matters are found within the body of this report.

MATTERS FOR CONSIDERATION – SECTION 4.15

s4.15(1)(a)(i) – The provisions of any EPI

PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2013		
Clause	Compliant	Notes (where needed or if not compliant)
2.1	<input checked="" type="checkbox"/> Permissible in zone and meets zone objectives.	Site is zoned RU1 Primary Production. Dwelling houses are permissible in this zoning.
2.7	<input checked="" type="checkbox"/> Demolition proposed and is not included as exempt under the SEPP. <input checked="" type="checkbox"/> Potential asbestos contained with condition of consent added.	<p>The current proposal is for the demolition of a locally significant archaeological site (Listed in the LEP – A6).</p> <p>Asbestos has been further considered through the heritage assessment.</p> <p>Standard condition of consent required for demolition.</p>
4.2B	<input type="checkbox"/> Dwelling proposed on RU1, RU2, R5, E2 or E3 land where there is no current dwelling on site. <input type="checkbox"/> Site complies with lot size map; OR, <input type="checkbox"/> Land zoned RU1, RU2, E2 or E3 and created before 22 February 2014 with an area of at least 4,000m ² on which a dwelling was permissible under the previous LEP; OR, <input type="checkbox"/> Would have met the above requirements but for a minor realignment that did not create an additional lot, a subdivision for a public purpose or a consolidation with an adjoining lot for a public purpose. <input checked="" type="checkbox"/> Where an existing consent for a dwelling is valid, the consent will be surrendered.	<p>The Port Stephens Local Environment Plan 2013 (LEP) indicates that the current land use zone applicable to the subject site is RU1 – Primary Production. As the area of the subject site is less than the minimum lot sizes identified under the current LEP, dwellings may only be permissible in this zoning if compliance with Clause 4.2B of the LEP is demonstrated.</p> <p>More specifically, Clause 4.2B (5) states that Development consent may be granted for the erection of a dwelling house on land to which this clause applies if there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house.</p>

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		<p>The term 'lawfully erect' is taken to mean that either;</p> <ul style="list-style-type: none"> a) The dwelling house was constructed when consent was not required, or b) There is an approval (whether development consent or a building approval) for the dwelling house. <p>Council records indicate a dwelling approval for the subject site, however, historical records were limited as the current dwelling was constructed when consent was not required. This demonstrates that the dwelling was existing on the lot and that a dwelling was lawfully erected on the site.</p> <p>In addition to the above, one of the objectives of Clause 4.2B(5), as provided by the Department of Planning's drafting direction, is to be able to replace dwelling houses that were lawfully erected but in their current state had become dilapidated or destroyed by flood, fire, or the like. The subject site has a 'lawfully erected' dwelling on the site and therefore, with reference to the above, the subject site benefits from a dwelling entitlement in accordance with Clause 4.2B (5) of the LEP.</p>
4.3	<input checked="" type="checkbox"/> Proposed development is under maximum building height; OR, <input type="checkbox"/> There is no maximum building height and the development satisfies the objectives.	Single Storey Dwelling – meets height requirements.
5.4	<input type="checkbox"/> No more than 4 bedrooms in dwelling used for B&B. <input type="checkbox"/> No more than 50m ² utilised for home business or home industry. <input type="checkbox"/> Kiosk floor area under 20m ² .	N/A – proposal is not for any of these uses.

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	<input type="checkbox"/> Neighbourhood shop does not exceed 100m ² . <input type="checkbox"/> Roadside stall does not exceed 10m ² . <input type="checkbox"/> Secondary dwelling does not exceed the greater of 60m ² or 40% of primary dwelling.	
5.9AA	<input type="checkbox"/> Trees will be removed that are not prescribed under DCP.	N/A – no significant trees to be removed.
7.1	<input checked="" type="checkbox"/> Potential Class 5 Acid Sulfate Soils (ASS); OR, <input type="checkbox"/> Potential Class 4 ASS with no works more than 2m below ground level; OR, <input type="checkbox"/> Potential Class 3 ASS with no works more than 1m below ground level; OR, <input type="checkbox"/> Potential Class 2 ASS with no works below ground level; OR, <input type="checkbox"/> Potential Class 1 ASS and an acceptable management plan has been submitted.	N/A – watertable is unlikely to be lowered below 1 metre AHD.
7.2	<input type="checkbox"/> Earthworks required, but do not have negative impacts on surrounding properties.	N/A – no significant earthworks proposed.
7.3	<input checked="" type="checkbox"/> Development within flood planning area but no anticipated flood risk to life and property, or change in flood characteristics.	Property deemed to be fully within a low hazard flood fringe area . A detailed flood assessment has been provided in B5 below.
7.5	<input type="checkbox"/> Within ANEF 20 contour or higher but does not result in an increased number of people affected by aircraft noise.	N/A – not mapped as being in this zone.
7.6	<input checked="" type="checkbox"/> Essential services are available to the site where required.	<p>Town water and sewer not available.</p> <p>Potable Water – provided via rainwater tank.</p> <p>Sewer - Port Stephens Councils Development Assessment Framework (DAF) is used to identify the onsite sewage management hazard class applicable to unsewered land. The DAF mapping layers identify the subject lot as being Very High Hazard with regards to wastewater. Given that the lot size</p>

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		is 722.83 square metres, an effluent pump out system would be permitted in accordance with Section 1.5 of the DAF.
7.8	<input type="checkbox"/> Development is within the drinking water catchment but will not result in a significant adverse impact on water quality or flows.	N/A – not within the catchment
7.9	<input type="checkbox"/> Subject land contains mapped wetlands, but development does not result in adverse impacts on ecology or water flows.	N/A – not relevant to this proposal.
7.15	<input type="checkbox"/> Dual occupancy on land zoned RU1, RU2, E2 or E3 gives the appearance of a single development and shared facilities such as access.	N/A – single storey dwelling proposed.

s4.15(1)(a)(ii) – Any Draft EPI

		Notes (what draft EPI if needed and comments where not compliant)
	<input checked="" type="checkbox"/> There are no draft EPI's that are relevant to the proposed development	Acknowledged
	<input checked="" type="checkbox"/> A draft EPI is relevant to the proposed development however the application is consistent with the aims and objectives of the document.	Acknowledged

s4.15(1)(a)(iii) – Any DCP

PORT STEPHENS DEVELOPMENT CONTROL PLAN 2014		
Clause	Compliant	Notes (where needed or if not compliant)
A.12	<input checked="" type="checkbox"/> Notification and advertising in line with Figure AA.	In accordance with Council's notification requirements the DA was advertised and notified for a period of 14 days from 27 September 2019 to 11 October 2019. During the exhibition period 5 submissions were received.
B1	<input checked="" type="checkbox"/> Trees to be removed do not require approval as outlined in B1.1.	Acknowledged
B2	<input type="checkbox"/> Not in proximity of items of environmental significance.	N/A N/A

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	<input type="checkbox"/> Land does not contain koala habitat or development is consistent with the CKPoM.				
B3	<input type="checkbox"/> Development meets bushfire construction requirements. <input type="checkbox"/> Development would not disturb acid sulphate soils or an acceptable ASSMP has been prepared. <input type="checkbox"/> Earthworks would have minimal environmental impacts with conditions on VENM fill and erosion and sediment controls.	<p>Not considered to be Bushfire Prone – managed land around the subject site.</p> <p>N/A</p> <p>N/A</p>			
B4	<input checked="" type="checkbox"/> Non-permeable area not significantly increased and development consistent with figure BD, on-site detention not required; OR, <input checked="" type="checkbox"/> Non-permeable area above figure BD and acceptable on-site detention proposed or condition for details added. <input checked="" type="checkbox"/> Insignificant increases to adversely impact on water quality.	<p>Current dwelling, colorbond shed, and older shed proposed to be removed. New structure not deemed to be a significant increase of non-permeable area.</p> <p>Addressed via the installation of a rain garden.</p>			
B5	<input checked="" type="checkbox"/> Proposed development is on flood prone land; AND, <input checked="" type="checkbox"/> A flood certificate has been submitted with the application and the finished levels are consistent with Table 2: Development Suitability Table; AND, <input checked="" type="checkbox"/> The submitted documents are consistent with Table 2: Development Suitability Table.	<p>The subject site is mapped as flood prone land. Recent flood data reviewed by Council has revealed that the subject lot is fully located within a low hazard flood fringe area.</p> <p>The adopted flood data for the subject site is as follows:</p> <table border="1"> <tr> <td>Flood Planning Level</td><td>7.6m AHD</td><td>This level defines the minimum floor level of habitable rooms and land that is subject to flood related development controls (refer to Port Stephens LEP Section 7.3, Port Stephens DCP Section B5)</td></tr> </table>	Flood Planning Level	7.6m AHD	This level defines the minimum floor level of habitable rooms and land that is subject to flood related development controls (refer to Port Stephens LEP Section 7.3, Port Stephens DCP Section B5)
Flood Planning Level	7.6m AHD	This level defines the minimum floor level of habitable rooms and land that is subject to flood related development controls (refer to Port Stephens LEP Section 7.3, Port Stephens DCP Section B5)			

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		Highest Hazard Category	Low Hazard Floor Fringe area
		Flood levels that may be useful are:	
		Probably maximum flood level	8.9m AHD The highest flood level that could conceivably occur at this location if required, onsite flood refuges are built at or above this level, to the Port Stephens Development Control Plan B5.2
		Current day 1% AEP flood level	6.6m AHD This level is useful for insurance purposes, refer to your insurance policy and the Insurance Contracts Regulation 1985 (Cwealth)
		Adaptable minimum floor level	7.4m AHD The 1% AEP flood level plus 0.5m, 50 years from now, refer to the Port Stephens Development Control Plan B5.2.
		Assessment of the proposal has revealed the following key matters that need to be considered with relation to flooding;	

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		<p><u>Finished Floor Levels</u></p> <p>With reference to the above, Section B5 of the DCP specifies that the minimum floor level for habitable rooms must meet the Flood Planning Level (FPL). The proposed finished floor level (FFL) of the dwelling is 7.8m AHD which is above the FPL of 7.6m AHD and is therefore deemed to be acceptable.</p> <p>In addition to the above, Section B5 of the DCP also specifies that a garage or carport must have a FFL that is 0.5m AHD above the 5% AEP level. The proposed FFL of the garage is 6.7m AHD, which is at least 500mm above the 5% AEP flood level, and is therefore deemed to be acceptable.</p> <p><u>Egress and Refuge Requirements</u></p> <p>The subject property has access to Paterson Road that is via land mapped as low hazard flood fringe category. Paterson Road reduces in elevation in both directions south and north and is inundated by the current 1% AEP flood event to depths greater than 3 metres. Hence, 862 Paterson Road essentially becomes a flood island during a current day 1% AEP event.</p> <p>Furthermore, the PMF flood level of 8.9m AHD would inundate the surrounding area including the proposed dwelling to a depth of 1.1m above the finished floor level. Hence there is a risk that the property occupants may not evacuate prior to Paterson Road being cut off (with the low point of Paterson Road to the north being more than 4m below the proposed property floor level).</p> <p>As per the DCP requirements, on-site flood refuge above the PMF</p>
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		<p>level of 8.9m AHD is required for this development. The flood refuge must also be structurally certified to withstand flooding impacts up to the PMF event.</p> <p>The architectural plans submitted with the application have incorporated a flood refuge area within the roof space of the garage located at 9.45m AHD. This refuge is considered to be acceptable subject to engineering certification being provided identifying that the refuge is structurally capable of withstanding a flood event up to the PMF level.</p> <p>The applicant has submitted a Flood effects report for the proposal (from GCA Engineering Solutions dated 30 July 2019). The flood effects report considers the proposal against the Australian Building Codes Board (ABCB) publication 'Construction of Buildings in Flood Hazard Areas'. This report provides recommendations outlining how the proposed residence and garage can structurally withstand a PMF flood event. The recommendations made within this report will be required to be complied with as a condition of consent.</p>
B6	<input checked="" type="checkbox"/> Essential services are available to the site, where required.	<p>See above.</p> <p>Electricity available.</p> <p>Reticulated sewer and water supply not available.</p>
B7	<input type="checkbox"/> Development within noise planning area is consistent with Clause 7.5 of the LEP – Aircraft Noise; AND <input type="checkbox"/> Department of Defence has been notified and no objections have been raised.	N/A – not mapped as being in this zone.
B8	<input checked="" type="checkbox"/> Development relates to a heritage item or conservation area, however is of minor nature or would not impact on the significance of the item; OR,	The subject site is located at 862 Paterson Road Woodville, which is listed as a locally significant archaeological site in the LEP. The listed site is specifically known as

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	<p><input checked="" type="checkbox"/> Development is likely to affect the significance of a heritage item, however it is supported by an acceptable heritage statement.</p> <p><input checked="" type="checkbox"/> Development proposing partial or total demolition of a heritage item or item within conservation area supported by a structural assessment.</p> <p><input checked="" type="checkbox"/> No expected impact to Aboriginal heritage.</p>	<p>"Pomfrett's Cottage (Slab Cottage)".</p> <p>The demolition of structures on a locally significant heritage site is permissible with consent, under Clause 5.10 of the LEP, subject to an assessment against this clause.</p> <p>The following is an extract from Clause 5.10 of the LEP that is relevant to this proposal:</p> <p><u>5.10 Heritage Conservation</u></p> <p>(4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p> <p>(5) Heritage assessment The consent authority may, before granting consent to any development:</p> <p>(a) On land on which a heritage item is located, or</p> <p>(b) On land that is within a heritage conservation area, or</p> <p>(c) On land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>
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		<p>In addition to Clause 5.10 of the LEP, Council must also consider Section B8 of the Development Control Plan 2014 (DCP). Section B8 of the DCP outlines the requirements relating to development proposals involving heritage. More specifically, this clause requires development applications that are likely to impact on the heritage significance of a heritage item, be accompanied by a heritage impact statement. This heritage impact statement must be consistent with the Office of Environment & Heritage 'Statements of Heritage Impact' document and be prepared by a suitably qualified and experienced consultant. This consultant must be registered and listed on the NSW Office of Environment and Heritage Consultants Directory.</p> <p>To address the relevant requirements in the LEP and the DCP mentioned above, a Statement of Heritage Impact ('the statement') has been completed by a heritage consultant listed on the NSW Office of Environment and Heritage Consultants Directory.</p> <p>As this statement was completed by a consultant engaged by the applicant, an independent review of the statement was also conducted by Councils Heritage advisor. This review has confirmed that the statement is considered to be an adequate assessment for the purposes of the Heritage Act 1977.</p> <p>On the basis of this, the following are key points taken from the Statement of Heritage Impact.</p> <p><u>Historical Significance</u></p> <p>Pomfretts cottage was likely built prior to 1878 and may be</p>
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		<p>associated with the early European settlement in the Woodville and Iona area. The dwelling is representative of a vernacular cottage of the 19th century, and is representative of building type and building techniques used in the 1800s. The dwelling has a symmetrical façade, steep pitched roof, verandah, split slab walls and timber shingles. An accurate internal assessment of the dwelling was unable to be conducted, as the dwelling is structurally unsound with a collapse imminent. Ordinarily section B8.C of Council's DCP would require a structural engineers report to accompany applications proposing demolition, but this was not deemed to be necessary as it would not provide any additional information than the external assessment.</p> <p>Given that an internal assessment of the dwelling could not be completed, it was not possible to accurately determine if the dwelling currently contains archaeological relics or items of significance. As such, the applicant will be required, as a condition of consent, to obtain an excavation permit from the Office of Environment & Heritage prior to the commencement of any works. This ensures that if relics or items of significance are found during the demolition of the dwelling, they will be appropriately managed.</p> <p><u>Social Significance</u></p> <p>Pomfretts cottage is listed in the LEP as a locally significant archaeological site, and therefore is deemed to be of value to the community. This value and local significance however, is diminished due to the current condition and imminent collapse of the cottage.</p>
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		<p>The DA was advertised in the Port Stephens Examiner on Thursday 26 September and neighbours notified in accordance with Councils DCP. This gave the community the opportunity to express the value and significance of the cottage to them.</p> <p>During the notification period, Council received a total of 5 submissions from the community. These submissions have been collated in the consultation section of this report.</p> <p>With specific reference to the heritage impact statement, and the comments received from Councils Heritage advisor, it is evident that the dwelling to be demolished has value to the community. This value, however, is significantly diminished due to the structural instability of the building and the imminent collapse. It was also determined that conservation of the dwelling would not be feasible due to the degree of deterioration of the structure. This deterioration would require a large amount of new fabric and building materials to restore. This would even further diminish the historical value. On the basis of the above, it has been deemed that it is appropriate to support the proposed demolition of the dwelling.</p> <p>In addition to the matters considered above, Clause B8 of the DCP also requires that the design of the proposed residence be complementary to the heritage significance of the area. This must also take into account the potential impact the design could have on the neighbouring Woodville School of Arts, which is also a locally listed Heritage Item in the LEP. As such, the statement of heritage impact has provided strict design</p>
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		guidelines for the new residence to address this requirement. The design guidelines have been adopted and will be recommended as a condition of consent.
B9	<input type="checkbox"/> The development would not generate significant increases in traffic. <input type="checkbox"/> On-site parking provision meets the requirements of figure BQ or merit based assessment; AND, <input type="checkbox"/> Suitable disabled parking is provided in line with figure BQ.	N/A
C1	<input type="checkbox"/> The development is a minor subdivision; AND, <input type="checkbox"/> The proposal would result in lot dimensions appropriate for their proposed use whilst not restricting the provision of services. <input type="checkbox"/> The proposal is consistent with the LEP requirements on subdivisions.	N/A
C2	<input checked="" type="checkbox"/> The proposed development would be consistent with the existing development in its form, height, bulk, design and materials. <input checked="" type="checkbox"/> The development would not adversely affect the amenity of neighbouring properties or the public domain. <input checked="" type="checkbox"/> The proposed awning would provide continuity in the street and integrated within the façade of the existing development. <input checked="" type="checkbox"/> Any entry structures are appropriately located so as not to obstruct pedestrians.	In addition to the matters considered above, Clause B8 of the DCP also requires that the design of the proposed residence be complementary to the heritage significance of the area. This must also take into account the potential impact the design could have on the neighbouring Woodville School of Arts, which is also a locally listed Heritage Item in the LEP. As such, the statement of heritage impact has provided strict design guidelines for the new residence to address this requirement. The design guidelines have been adopted and will be recommended as a condition of consent.
C3	<input checked="" type="checkbox"/> The proposed development would be consistent with the existing development in its form, height, bulk, design and materials. <input checked="" type="checkbox"/> Fencing forward of the 6m setback does not exceed 1.2m and is constructed of masonry or dark coloured picket/pool style fencing. Beyond 6m setback, fencing/security gates do not exceed 2m.	The new dwelling is to be designed in accordance with the recommendations made within the Heritage Impact Statement. This will ensure it is sympathetic to the streetscape and neighbouring Woodville School of Arts (Locally significant Heritage site)
C4	<input checked="" type="checkbox"/> BASIX submitted in accordance with SEPP.	Valid BASIX certificate submitted.

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	<input checked="" type="checkbox"/> Site coverage is in accordance with figure BD. <input checked="" type="checkbox"/> Proposal ensures development provides continuity to the street and setbacks comply with C4.10-C4.19. <input checked="" type="checkbox"/> Development appropriately activates the street with habitable rooms where applicable. <input checked="" type="checkbox"/> The proposed development would be sympathetic to the streetscene as it is consistent with the existing development in its form, height, bulk, design and materials. <input checked="" type="checkbox"/> The development would not adversely affect the amenity of neighbouring properties or the public domain. <input checked="" type="checkbox"/> Ancillary development complies with C4.31-C4.43.	<p>Site coverage compliant. Setbacks deemed to be acceptable.</p> <p>See C3 above.</p> <p>See C3 above</p> <p>Proposed single storey dwelling is not envisaged to impact on the amenity of the neighbouring school of arts or Iona public school.</p>
C6	<input type="checkbox"/> Applicant has adequately justified the development is consistent with the definition of home business/home industry and size limit of LEP. <input type="checkbox"/> Proposal does not adversely impact on amenity in terms of noise, smell, traffic generation etc. <input type="checkbox"/> No signage, other than a business identification sign, is proposed. Restricted through condition of consent. <input type="checkbox"/> Parking is provided in line with figure BQ in Chapter B9 or merit-based assessment established on employees/home occupiers and expected customers. <input type="checkbox"/> Applicant indicated hours of operation that are acceptable given the nature of the development within the locality and restricted through condition of consent. <input type="checkbox"/> Any storage is appropriately located. <input type="checkbox"/> Vehicle repair operations proposed with maximum capacity of two vehicles and one trailer per truck permitted; AND, <input type="checkbox"/> Vehicle storage located behind building line.	N/A – This section does not apply.
C8	<input type="checkbox"/> Signage is integrated within the building façade; AND, <input type="checkbox"/> Development does not include flashing signs, roof signs, vehicular signs (where primary use is for advertising), above awning	N/A – No signage proposed.

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	sign, airborne sign, inflatable sign or hoarding sign.	
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s4.15(1)(a)(iiiia) – Any planning agreement or draft planning agreement entered into under section 7.4

	Notes (where needed)
<input checked="" type="checkbox"/> There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.	N/A - Acknowledged

s4.15(1)(a)(iv) – The regulations

	Notes (where needed)
<input checked="" type="checkbox"/> There are no matters within the regulations that are relevant to the determination of the application.	N/A - Acknowledged

s4.15(1)(a)(v) – Any coastal management plan

	Notes (where needed)
<input checked="" type="checkbox"/> There are no coastal management plans that are relevant to the determination of the application.	N/A - Acknowledged

s4.15(1)(b) – The likely impacts of the development

	Notes (where needed)
<input checked="" type="checkbox"/> Social and Economic Environment: There would be beneficial impacts as a result of the development.	<p>Pomfretts cottage is listed in the LEP as a locally significant archaeological site, and therefore is deemed to be of value to the community. This value and local significance however, is diminished due to the current condition and imminent collapse of the cottage.</p> <p>The DA was advertised in the Port Stephens Examiner on Thursday 26 September and neighbours notified in accordance with Councils DCP. This gave the community the</p>

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	<p>opportunity to express the value and significance of the cottage to them.</p> <p>During the notification period, Council received a total of 5 submissions from the community. These submissions have been collated in the consultation section of this report.</p>
<input checked="" type="checkbox"/> Built Environment: The proposed development would not cause harm to the existing character.	See C3 above.
<input checked="" type="checkbox"/> Natural Environment: There are no adverse impacts expected as a result of the proposed development and appropriate conditions have been added.	Single dwelling not deemed to have any negative impact on the environment. Standard conditions of consent protect the environment during the construction phase.

s4.15(1)(c) – The suitability of the site

The subject site is considered to be suitable for the development as it is permissible within the zone, and is replacing a current dilapidated dwelling on the site. Dwelling entitlement is permissible as per the assessment above.

s4.15(1)(d) – Any submissions

It is noted that Council's notification policy outlined in Chapter A of the DCP 2014, that developments that involve significant works to heritage items and that may be of significant community interest, will be required to be advertised and notified. As such, the Development Application has been advertised in the Port Stephens Examiner on 26 September 2019 and Neighbour Notified. The advertisement and notification period was from 27 September 2019 to 11 October 2019 for 14 days.

Council received a total of 5 submissions during the advertising and notification period. The submissions are summarised as follows;

No.	Concerns	Comments
1	- Dwelling entitlement	The property has been identified to have a dwelling entitlement, this has been addressed within body of the assessment report.
2	- Historical, cultural, Local Heritage value	The historical, and cultural issues have been addressed in detail within the body of the report.

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	<ul style="list-style-type: none"> - Potential for conservation/reconstruction to complement the heritage aspects of the site 	<p>A Statement of Heritage Impact ('the statement') has been completed by a heritage consultant listed on the NSW Office of Environment and Heritage Consultants Directory to accompany the application. The report was assessed by Council's heritage officer whom agreed with the assessment and listed recommendation.</p> <p>The new dwelling is to be designed in accordance with the recommendations made within the Heritage Impact Statement.</p>
3	<ul style="list-style-type: none"> - Financial/economic impact on the Woodville School of Arts. - Potential future complaints from the new owners relating to the activities held at the Woodville School of Arts - Potential for future owners to object to future events held at the Woodville School of Arts. - Proximity and relationship with the Woodville School of Arts and restriction on operational use. 	<p>The use of the land as a residence is unchanged. To not allow residential development would be to sterilise the use of the land. Any potential future complaints would need to be investigated if they arise.</p> <p>The development of the subject site is not considered to give rise to a financial or operational impact to the Woodville School of Arts. Further, this is not a matter for consideration under Section 4.15 of the Environmental Planning Assessment 1979.</p>
4	<ul style="list-style-type: none"> - Inadequate notification of the Development Application 	<p>Notification was carried out in accordance with Council's advertising and notification policy.</p>

s4.15(1)(e) – The public interest

The proposal has been assessed (as indicated by the assessment above) against relevant legislation and Council policies. The legislation and policies assessed against have been developed and implemented with public interest in mind. Given this proposal meets all relevant legislation and Council Policies, Council can be satisfied that the proposal will not have an adverse effect with regards to public interest.

DETERMINATION

The application is recommended to be approved under delegated authority, subject to conditions as contained in the notice of determination.

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APPLICATION REFERENCES

Application Number	16-2019-194-1
Development Description	Residential flat building (12 apartments, car parking, pool) and demolition of existing dwelling
Applicant	DIVINE DESIGNER HOMES PTY LIMITED
Land owner	DIVINE DESIGNER HOMES PTY LIMITED
Date of Lodgement	28/03/2019
Value of Works	\$5,800,000

Development Proposal

The application proposes a part four and five storey residential flat building (RFB) comprising of 12 units, earthworks and associated landscaping. Key aspects of the proposal include:

- Semi-basement level with 22 car parking spaces and storage area;
- Communal pool and terrace;
- Four (4) levels of residential apartments with a mix of 4 x 2 bedrooms and 8 x 3 bedrooms;
- Ground level landscaping, driveway and associated site works; and
- Ground level foyer, lobby, lift and pedestrian entrance.

The designated car parking area containing 22 spaces will be located at the semi-basement level, with 20 of these spaces allocated for residents and two (2) spaces allocated for visitors.

The ground level will also include a waste storage area, foyer, lift and lobby.

Landscaping has been provided for visual screening from the street frontage and adjoining properties, and to increase the amenity of the development for future occupants.

The entry and exit point to the car parking area is provided on the building's frontage to Thurlow Avenue. The elevations of the proposed development are shown in **Figure 1** and **Figure 2** below.

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Figure 1: Thurlow Avenue perspective of the proposed development



Figure 2: Rear perspective of the proposed development

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PROPERTY DETAILS

Property Address	10 Thurlow Avenue NELSON BAY
Lot and DP	LOT: 6 SEC: 1 DP: 8391
Current Use	Detached single storey residential dwelling
Zoning	R3 MEDIUM DENSITY RESIDENTIAL
Site Constraints	SEPP (Coastal Management) 2018 – Coastal Zone Class 5 Acid Sulfate Soils

Site Description

The subject site is located at 10 Thurlow Avenue, Nelson Bay. The site has a rectangular shape with a total site area of 1,012m² and 21m street frontage (Figure 3). The site has a significant fall away from Thurlow Avenue to the north. The site currently supports a single detached dwelling approved under DA Consent No.644/49. The subject site is positioned on the northern side of Thurlow Avenue within close proximity to the Nelson Bay Town Centre, located to the east. The site enjoys very attractive views to the north across Nelson Bay.

The land falls away from the road towards the northern boundary of the property, where it adjoins a coastal reserve which falls steeply from the property to the water's edge. To the west of the lot at No.12, is a three storey unit block which appears to be well maintained and which appears to have been constructed in the early 1970s. The car parking for these units is a two-level concrete structure that extends boundary to boundary near the street front, with the upper deck being approximately level with the street and with cars on the open upper deck fully visually exposed. To the east of the site, at No.8 Thurlow is what appears to be a well-kept single dwelling circa 1970s, which is one storey and is built close to its western boundary. This cottage occupies an allotment approximately the same size as the subject site. To the east of this lot at No.6 Thurlow Avenue, is a large three storey unit development on a large site.

The site is located within the Nelson Bay Foreshore West Precinct and is suitably positioned within close proximity to a local centre, bus stops with frequent services to major centres. There are a number of comparable development types in close proximity to the site, commensurate with the ongoing renewal of the Nelson Bay Town Centre and foreshore area.

Nelson Bay is an established urban centre, undergoing a transition from low density residential to medium rise multi-dwelling and apartment type developments. The character of the area is typified by medium and low density developments, comprising older apartment stock in the form of three and four storey walk-up residential flat buildings, single dwellings and modern narrow infill developments.

Site History

The following application has been approved over the subject site:

- DA No.7-1987-3420-1 – Four townhouses.
- DA No.16-1999-840-1 – Dwelling alterations and additions.

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No historic compliance matters has been identified that would impact upon the proposed development.



Figure 3: Aerial photo of locality

A site inspection was carried out on 11 June 2019. The subject site and surrounds can be seen in photographs below.



Photograph 1: The development site viewed from the Thurlow Avenue frontage

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Photograph 2: Existing development to the west of the site



Photograph 3: Streetscape to the west of the site



Photograph 4: Streetscape to the east of the site towards Nelson Bay

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Photograph 5: Development site viewed from northern coastal reserve



Photograph 6: View of adjoining property 12 Thurlow viewed from northern coastal reserve

ASSESSMENT SUMMARY

Designated Development	The application is not designated development
Integrated Development	The application does not require additional approvals listed under s.4.46 of the EP&A Act
Concurrence	The application does not require the concurrence of another body

Internal Referrals

The proposed development was referred to the following internal specialist staff. The comments of the listed staff have been used to carry out the assessment against the Section 4.15 Matters for Consideration below.

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Engineering Services – Additional information was requested by Council's Engineering Section, including an amended stormwater report and traffic assessment. Upon receipt and review of this information, the application was supported with conditions.

Building Surveyor – No issues were identified and the application was supported with conditions.

Development Contributions Officer - The application has been assessed in accordance with Council's Local Infrastructure Contributions Plan, and has been provided with a one lot credit (for the existing dwelling). A monetary contribution for an additional 11 dwellings is applicable, and has been conditioned accordingly.

Vegetation Management Officer – Following the review of the landscaping plan, Council's Vegetation Management Officer supported the application subject to street trees complying with Council's Tree Technical Specification.

Spatial Services – No objections were raised. A condition has been incorporated on the consent identifying the allocated unit numbering and address.

Waste Management – Residential units will be provided with 6 x 1360L general waste bins collected weekly and 6 x 1360L recycling bins collected fortnightly.

External Referrals

The proposed development was referred to the following external agencies for comment.

Urban Design Consultative Group

The application was referred to the Newcastle City Council's Urban Design Consultative Group (UDCG) for review of the architectural merit of the development on 19 June 2019. A large number of amendments were recommended to be incorporated into the design to achieve the design quality provisions contained within the *State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development* ("SEPP 65") and Apartment Design Guide.

In response to the minutes received by the UDCG panel, the applicant revised the building design and provided additional information to address the concerns raised by the UDCG.

MATTERS FOR CONSIDERATION – SECTION 4.15

Environmental Planning and Assessment Act 1979

Section 4.15 - Matters for Consideration

The proposal has been assessed under the relevant matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as follows.

Section 4.15(1)(a)(i) provisions of any environmental planning instrument State Environmental Planning Policies

The environmental planning instruments (EPIs) that relate to the proposed development are:

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (Coastal Management) 2018;
- State Environmental Planning Policy 55 – Remediation of Land;

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- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development; and
- Port Stephens Local Environmental Plan 2013.

An assessment of the proposed development against these EPIs is detailed below.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) was enacted to ensure that dwellings are designed to utilise less potable water and to minimise greenhouse gas emissions by setting energy and water reduction targets for residential houses and units. A valid BASIX certificate has been submitted with the development application which demonstrates that the water, thermal comfort and energy requirements for the proposal have been achieved. The proposal is considered to satisfy the relevant provisions of SEPP BASIX.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ('Vegetation SEPP'), aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State. The Vegetation SEPP works in conjunction with the *Biodiversity Conservation Act 2016* and the *Local Land Services Amendment Act 2016* to create a framework for the regulation of clearing of native vegetation in NSW.

Part 3 of the Vegetation SEPP contains provisions similar to those contained in the former (now repealed) clause 5.9 of Port Stephens Local Environmental Plan 2013 and provides that Council's Development Control Plan can make declarations with regards to certain matters. The Vegetation SEPP further provides that Council may issue a permit for tree removal.

The development application seeks consent for the removal of existing street trees located along the Thurlow Avenue frontage. The removal is supported as replacement street tree plantings are proposed by the applicant consistent with Council's landscape technical specifications.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) provides a framework to simplify the approvals process for the delivery of infrastructure and also identifies a consultation process with relevant public authorities for certain development types. Under Clause 104 of the ISEPP, the proposed development is not classified as traffic generating development as the proposed residential flat building does not exceed 200 units. Consequently, the application was not referred to RMS for comment.

The application was referred to Ausgrid under clause 45 *SEPP (Infrastructure) 2007* as there are existing overhead electricity network assets in Thurlow Avenue adjacent to the proposed development. Ausgrid supported the development subject to conditions relating to works undertaken being undertaken in accordance with all relevant statutory requirements. The recommended conditions of consent have incorporated the Ausgrid requirements.

State Environmental Planning Policy (Coastal Management) 2018

State Environmental Planning Policy (Coastal Management) 2018 (Coastal Management SEPP) aims to promote an integrated and coordinated approach to land use planning in the coastal zone

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and gives effect to the objectives of the *Coastal Management Act 2016* by specifying how development proposals are to be assessed if they fall within the coastal zone.

The subject site is in an area mapped as a 'Coastal Environment Area' and 'Coastal Use Area' under the Coastal Management SEPP. The Coastal Environment Area includes land and waterbodies identified as being ecologically sensitive to impacts from coastal development activity. Clause 13 of the Coastal Management SEPP includes matters for consideration in respect to the granting of development consent. The proposed development has been assessed against the provisions of clause 13 as follows.

Matter for consideration	Assessment comment
The integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment.	<p>The proposed development is located approx. 70m from the coastal foreshore and is located on an existing developed site. It is noted that the stormwater management measures proposed as part of the development proposal have been designed to mitigate any adverse effects to adjoining or downstream sites.</p> <p>The development is not considered likely to adversely impact upon the integrity of the coastal environment area.</p>
Coastal environmental values and natural coastal processes.	<p>Whilst the development is located within an area mapped as Coastal Environment Area, the subject site is located within the Nelson Bay Foreshore West Precinct and has been previously developed for the purpose of residential accommodation. The proposal is considered to be in-fill development within proximity to an established commercial area.</p> <p>Furthermore, due to the proximity of the development to the coastal foreshore, the proposal is not anticipated to result in any adverse impacts to coastal environmental values or natural coastal processes.</p>
The water quality of the marine estate, in particular the cumulative impacts of the proposed development on any sensitive coastal lakes.	The proposed development is not located within proximity to any sensitive coastal lakes.
Marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms.	The subject site is not located within close proximity to the coastal foreshore and does not contain marine or other native vegetation, headlands or rock platforms.
Existing public open space and safe access to and along the foreshore, beach, headland, or rock platform for members of the public, including persons with a disability.	The subject site is not located within close proximity to the foreshore. The development will not impact upon public open space or access.

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Aboriginal cultural heritage, practices and places.	The subject site has been previously disturbed and developed for residential development purposes. It is unlikely that the proposed development will impact upon Aboriginal cultural heritage, practices or places. Notwithstanding, due to the extent of excavation proposed, a condition of consent has been recommended that requires works to cease and for Biodiversity Conservation Division to be notified in the event that an item of Aboriginal heritage significance is located on site during works.
The use of the surf zone.	Not applicable.

The Coastal Use Area includes land identified as being sensitive to impacts on the coastal and built environment from development. Clause 14 of the Coastal Management SEPP includes matters for consideration in respect to the granting of development consent. The proposed development has been assessed against the provisions of clause 14 as follows;

Matter for consideration	Assessment comment
Existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability.	The subject site is not located within immediate proximity to the foreshore. The development will not impact upon public open space or access.
Overshadowing, wind funnelling and the loss of views from public places to foreshores.	A detailed assessment with regard to view loss and overshadowing has been included in other sections of this report. Based on the siting, bulk and scale of the development, there will be no unreasonable view loss from the public domain to the foreshore, nor will the proposal proliferate wind funnelling. Shadow diagrams have been submitted demonstrating there will be no overshadowing on public foreshore areas.
The visual amenity and scenic qualities of the coast, including coastal headlands.	The proposed development is not located within proximity to any sensitive coastal lakes.
Aboriginal cultural heritage, practices and places.	The subject site has been previously disturbed and developed for the purposes of a dwelling. It is unlikely that the proposed development will impact upon Aboriginal cultural heritage, practices or places. Notwithstanding, due to the extent of excavation proposed, a condition of consent has been recommended that requires works to cease and for the Biodiversity Conservation Division to be notified in the event that an item of Aboriginal heritage significance is located on site during works.
Cultural and built environment heritage.	There are no sensitive heritage or cultural items in close proximity to the site. The proposed built form is typical of the surrounding built form of the Nelson Bay Foreshore precinct.

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State Environmental Planning Policy 65 – Design Quality of Residential Flat Development

State Environmental Planning Policy State Environmental Planning Policy 65 – Quality Design of Residential Apartment Development (SEPP 65) aims to improve the quality of residential apartment development and provides an assessment framework ('the Apartment Design Guide) to facilitate the assessment of 'good design'. SEPP 65 requires the consideration of any development application for residential accommodation meeting the application criteria, which includes residential flat buildings, against nine design quality principles, the advice obtained from a design review panel and the Apartment Design Guide (ADG). In addition, clause 6A of SEPP 65 states that any of the following ADG provision supersedes DCP controls in respect of the following matters:

- a) visual privacy;
- b) solar and daylight access;
- c) common circulation and spaces;
- d) apartment size and layout;
- e) ceiling heights;
- f) private open space and balconies;
- g) natural ventilation; and
- h) storage.

Urban Design Consultative Group

The application was referred to the Newcastle City Council's Urban Design Consultative Group (UDCG) for review of the architectural merit of the development on 19 June 2019. A large number of amendments were recommended to be incorporated into the design to achieve design quality provisions contained within the *State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development* ('SEPP 65') and Apartment Design Guide. These issues included:

- Insufficient side setbacks;
- Suggested amalgamation of site with 8 Thurlow Avenue;
- Concerns relating to density, noting the limited side setback and visual impact of the basement level;
- Insufficient deep soil landscaping;
- Excessive site coverage
- Insufficient buffer between terrace/pool area and neighbours, raising amenity concerns;
- Insufficient solar access to private open space;
- Bulk and scale when viewed from the waterway and foreshore reserve; and

The UDCG Panel recommended amalgamation of the site with No.8 Thurlow Avenue. If this avenue is not available, a building of a lesser scale would be appropriate for the site, with greater setbacks

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and a redesigned carpark that does not impact neighbours and that does not contribute excessively to bulk and scale.

The UDCG outlined that in order to achieve design quality provisions contained within the *State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development* ('SEPP 65'), the UDCG considers the above aspects of the proposed development be the subject of further amendment. In response to the minutes received by the UDCG panel, the applicant has made building design amendments, including:

- Reduction in the overall height of the development.
- The building footprint has been reduced and the side setbacks have been increased. The windows to the side elevations have also been adjusted to increase privacy.
- Drawings have been prepared which demonstrate that the views are not adversely affected.
- To address lot isolation, drawings have been prepared showing an identical development on No. 8 Thurlow Avenue.
- Revised internal layout for south facing apartments.
- Amended colour pattern on the side elevations, increasing the design quality and reducing the perceived height bulk and scale of building.

The amended design has formed the basis of this assessment and been considered against the SEPP 65 and ADG provisions.

The applicant amended their design in order to respond to the matters raised by the UDCG and submitted a Design Verification Statement (prepared by Mark Lawler Architects, 10 December 2019) in support of their application.

The proposed development, as amended, has been assessed against the nine design quality principles and the ADG as outlined below.

Apartment Design Guide	
Quality design principles	
Principle	Assessment
Principle 1: Context and neighbourhood character	<p>Principle 1 identifies that good design responds and contributes to its context, with context being established by the key natural and built features of an area. Responding to context involves identifying the desirable element of an area's existing or future character.</p> <p>The site is located on the north side of Thurlow Avenue, close to the intersection with Nelson Street. The site is long and relatively narrow. The site has continuous fall from Thurlow Avenue down to the northern boundary. The north portion of the site, and the Reserve beyond the boundary, has a steep fall down to the waterfront. The rear boundary faces north and offers panoramic water views above the Reserve. A walkway through the Reserve links Nelson Bay shopping village to Dutchies Beach. Over the street the views south overlook residential development and the tree-covered hills further to the south.</p> <p>The development bordering the western boundary of this site is a five storey, circa 1980's apartment building. This building varies in height with</p>

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	<p>the slope of the land. It has an unusual arrangement with semi-basement resident parking with open, visitor parking above. Dual ramps leading up and down address the street. On the eastern boundary of this proposal is a single storey house built in the 1960's. Based on the emerging character of the locality and surrounding trends, the development of a residential flat building is likely.</p> <p>The applicant notes the site is zoned R3 Medium Density residential, and this area of Thurlow Avenue is a location undergoing transition as older private residences and small scale flat buildings are gradually being replaced by mid-size apartment buildings.</p> <p>The street setbacks along Thurlow Avenue vary considerably due to the different types of development. The setback proposed is considered to be a suitable balance between creating a reasonable setback with an opportunity for landscaping, while still presenting a suitable presence to the street. The narrow site dimensions mandate a relatively small setback to both side boundaries. The reduced side setbacks have been offset by the restriction of the windows on these elevations and use of privacy screens and obscure glazing where necessary.</p>
Principle 2: Built form and scale	<p>Principle 2 identifies that good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>The proposed development exceeds the existing 15 m height limitation under Council's LEP, however complies with the 17.5 m height limitation endorsed under the Nelson Bay (NB) Strategy (which has not yet been implemented through a Planning Proposal).</p> <p>The design includes articulation and changes in colours and finishes in order to adequately address the developments overall bulk and scale. The compact, three dimensional form of the building reflects the site constraints with the large, open decks at the north and south elevations. The decks, sunscreens, façade treatment and roof parapet form a horizontal expression which balances the building's vertical proportions.</p> <p>The form supports variable setbacks with a variety in finishes along the axis of the building, including a mix of dark and light cladding. This change in material and form along the axis of the development provides visual recessing of this aspect. The residential balconies comprise a mix of solid and semi glazed balustrading. This vertical material treatment breaks up the horizontal length of the balconies providing visual relief from the bulk and scale of the development.</p>
Principle 3: Density	<p>Principle 3 stipulates that good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Council's LEP has not adopted a floor space ratio (FSR) provision and accordingly density is controlled through the application of, height, setback and landscaping controls. It is noted however that the NB strategy identifies a FSR of 2.5.0:1 for the site.</p>

	<p>The UDCG noted concerns that the development of the subject site would result in the isolation of the adjoining land holding at No. 8 Thurlow Avenue. The applicant has provided written documentation demonstrating that an offer was made to the adjoining land owner and was not accepted.</p> <p>Failing amalgamation of the adjoining lot with the subject site the UDCG noted that adequate treatment would be required to ensure an appropriate transition between the two developments. The applicant also submitted test of adequacy drawings demonstrating a development of a similar density could be supported on No. 8 Thurlow.</p> <p>This development is a small scale apartment building of four levels (with one semi-basement level). The density of the proposed apartment building is appropriate to this site and the immediate context.</p>
Principle 4: Sustainability	<p>Principle 4 identifies that good design combines positive environmental, social and economic outcomes. Further, that good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents.</p> <p>A valid BASIX certificate has been submitted with the development. The re-cycling of stormwater and efficient hot water heating have been included in the BASIX Assessment.</p> <p>Conditions have been included requiring screened elements to reduce solar gains and increase thermal control of the apartments and internal elements of the building.</p> <p>The proposed development is considered acceptable with respect to this Principle.</p>
Principle 5: Landscape	<p>Principle 5 specifies that good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity.</p> <p>The applicant proposes the provision of tree plantings in the front setback and landscaping at ground level of an appropriate scale to the development, which will 'soften' the appearance of the development when viewed from the public domain.</p> <p>Deep soil planting areas have been provided in the front setback, comprising mature plantings and street trees to attenuate the built form. Deep soil planting wraps around the pool and terrace area and includes plantings to provide visual screening. Given the narrow typology of the site, limited landscape treatment has been proposed along the adjoining property boundaries. However, a green wall has been proposed for the podium/parking level to soften the built form for the adjoining properties.</p> <p>Conditions of consent have been imposed in respect to the provision of landscaping, including requirements for street tree plantings and a</p>

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	<p>requirement to maintain landscaping in perpetuity, particularly for the maintenance of the green wall.</p>
Principle 6: Amenity	<p>Principle 6 provides that good design positively influences internal and external amenity for residents and neighbours. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.</p> <p>The UDCG noted the original design was generally well planned internally, but the close proximity to side and rear boundaries raised amenity concerns on existing and future neighbours to the development. Reduced side boundary setbacks also restrict provision of attractive aspects to bedrooms that face side boundaries and give rise to concerns as to acoustic and visual privacy conflicts with the existing apartment development to the west, and the existing cottage and future development to the east.</p> <p>In response, the design was amended by developing a building with increased side setbacks and limiting side facing habitable rooms to control privacy. If it was assumed identical developments were constructed on the adjoining properties with a similar design approach, satisfactory amenity could likely be achieved as demonstrated in the test of adequacy drawings.</p> <p>Overall, the amenity of the proposed development is acceptable, providing for an appropriate level of solar access, natural ventilation, privacy and outlook. In addition, the layout of the proposed residential units is considered appropriate and generally compliant with the criteria specified by the ADG as outlined further below.</p>
Principle 7: Safety	<p>Principle 7 identifies that good design optimises safety and security within the development and public domain.</p> <p>The development is appropriately designed in relation to safety with passive surveillance of Thurlow Avenue achieved via the balconies and living areas of the proposed residential units.</p> <p>Pool fencing has been included in the revised design in response to the UDCG comments.</p>
Principle 8: Housing diversity and social interaction	<p>Principle 8 specifies that good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>The proposed development includes an appropriate apartment mix which will be suitable to cater for a cross-section of future residents.</p> <p>The UDCG noted the proposed unit mix is considered acceptable in the context.</p>

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Principle 9: Aesthetics	<p>Principle 9 provides that good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design also uses a variety of materials, colours and textures.</p> <p>The overall aesthetics of the development are of good quality with the inclusion of range of materials, textures and colours. The range of materials and colours in conjunction with the articulation and modulation of building facades will assist to visually reduce the perception of the bulk and scale of the development and to ensure compatibility with surrounding development.</p>	
Assessment Criteria		
Control / Requirement	Proposed	Compliance / Comment
<p>3A-1 – Site analysis</p> <p>Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.</p>	Site analysis plan submitted.	Yes – provided.
<p>3B-1 Orientation</p> <p>Building types and layouts respond to the streetscape and site while optimising solar access within the development.</p>	The development has been orientated to the foreshore to maximise the orientation of the development to the north.	Yes – complies.
<p>3B-2 Orientation</p> <p>Overshadowing of neighbouring properties is minimised during mid-winter.</p>	<p>A shadow analysis has been provided which demonstrates that the development will overshadow adjoining properties to the east and west, in particular No. 8 and No. 12 Thurlow Avenue. However, these properties will receive 3 hours of solar access during mid winter.</p> <p>The living areas and balconies of the apartments located at No. 12 Thurlow Avenue are positioned to the north, with unobstructed solar access and natural ventilation. As such, these apartments will receive 3 hrs of solar access from 9am to 12pm mid-winter. The dwelling at No. 8 Thurlow Avenue will also receive 3 hrs of solar access from 12pm to 3pm mid-winter.</p> <p>The impact to the west is primarily restricted to the car parking area located in the front setback of the No. 12 Thurlow apartments. The impact to the west will</p>	Yes – acceptable overshadowing of neighbouring properties in mid-winter.

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	<p>affect the western rooms of the dwelling located on No. 8 Thurlow, however the dwelling still receives adequate mid-winter sun with its uninterrupted northern aspect.</p> <p>The submitted test of adequacy drawings demonstrate acceptable solar access could be achieved for a greater density development on No. 8 Thurlow due to the lot orientation.</p>	
<p><i>3C-1 Public Domain Interface</i></p> <p>Transition between private and public domain is achieved without compromising safety and security.</p>	<p>The transition between the private and public domains is achieved through direct access to the residential component of the development. A clear entry feature and change in surface entry paving has been provided to delineate the private domain from the public domain.</p> <p>Furthermore, as the development is for a small scale residential flat building located in a residential zoned area, the issues that arise between the private and public domain, such as that experienced in more dense commercial areas, is not prevalent in this instance.</p>	Yes – complies.
<p><i>3C-2 Public Domain Interface</i></p> <p>Amenity of the public domain is retained and enhanced.</p>	<p>The amenity of the public domain will be maintained through the provision of landscape treatment and improved activation of the streetscape.</p>	Yes – complies.
<p><i>3D-1 Communal and Public Open Space</i></p> <p>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> • Communal open space has a minimum area equal to 25% of the site area. • Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (midwinter). 	<p>Communal open space is provided on the podium level with pool and communal facilities. The communal area is located on the northern aspect of the development.</p> <p>The site has an area of 1,000 m² and therefore requires 250 m² of communal open space. The development has approximately 265 m² of communal open space.</p> <p>At least 50% of the principal usable part of the communal open space will achieve a minimum of 2 hours direct sunlight between 9am and 3pm on June 21 (mid-winter).</p>	Yes – complies.

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<p><i>3D-2 Communal and Public Open Space</i></p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p>	<p>The proposed communal open space will provide for a range of activities and includes areas for seating as well as active areas, such as the pool.</p>	<p>Yes – complies.</p>
<p><i>3D-3 Communal and Public Open Space</i></p> <p>Communal open space is designed to maximise safety.</p>	<p>The proposed communal open spaces are well defined and are overlooked by the proposed apartments.</p>	<p>Yes – complies.</p>
<p><i>3D-4 Communal and Public Open Space</i></p> <p>Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.</p>	<p>Public open space is not required to be provided as part of the proposed development.</p>	<p>N/A.</p>
<p><i>3E-1 Deep Soil Zones</i></p> <p>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> • Site area greater than 1,500 m² – minimum dimension 6m and 7% of site area. <p>However, the design criteria may not be possible on some sites including:</p> <ul style="list-style-type: none"> • Central business district. • Constrained sites. • High density areas. • Commercial centres. • Where there is 100% site coverage or non-residential uses at ground floor. 	<p>The area of deep soil provided is 121m² (8.2%) of the site area. The deep soil provision is considered acceptable in the context of the site and achieves the required 7% with minimum dimensions of 3m.</p> <p>Deep soil planting has been provided on the Thurlow Avenue frontage and around the terrace and pool area, with the inclusion of street trees. The proposed landscape scheme is considered to achieve acceptable residential amenity and plant growth opportunities.</p> <p>An acceptable stormwater management treatment system has been provided (subject to conditions of consent).</p>	<p>Yes - complies.</p>
<p><i>3F-1 Visual Privacy</i></p> <p>Adequate building separation distances are shared equitably</p>	<p>There is a predominant 3.3m setback for levels 1 to 4 from the western and eastern boundaries, with minor protrusions for</p>	<p>No – variation supported.</p>

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<p>between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> • Building height up to 12m (4 storeys): <ul style="list-style-type: none"> • Habitable rooms and balconies - 6m. • Non habitable rooms – 3m. • Building height up to 25 metres (5-8 storeys): <ul style="list-style-type: none"> • Habitable rooms and balconies - 9m. • Non habitable rooms – 4.5m. • Building height over 25m (9+ storeys): <ul style="list-style-type: none"> • Habitable rooms and balconies - 12m. • Non habitable rooms – 6m. • No separation is required between blank walls. • An additional 3 m separation is required when adjacent to a different zone which permits lower density residential development to provide a transition in scale and increased landscaping. 	<p>bedrooms (Bedrooms 1) of the northern facing units.</p> <p>A stepped design approach has been adopted for the northern aspect of the building, creating increased side setbacks (4.67m) for the deck and living spaces for north facing units. This approach provides an approximate 8m separation from the apartment balconies located at No. 12 Thurlow (west).</p> <p>The southern aspect decks are located centrally within the footprint, adequately setback 6m from the side boundaries respectively.</p> <p>There are no building separation concerns from the front (south) or rear (northern) boundaries, noting both are located along public street frontages and reserves.</p> <p>The podium level (basement) is proposed to be built 200mm from the side boundaries. Due to the irregular shape of the lot, the basement will be setback 6.6 – 12.9m from the front boundary and 3.4m – 9.7m from the rear respectively. It is noted no separation is required between blank walls under the ADG.</p> <p>The UDCG recommended increased setbacks (i.e. +3m) be applied to the eastern and western boundaries to provide an appropriate transition and separation. However, it is noted the typology is classified as narrow infill apartments. As outlined in the ADG, achieving minimum building separation can be difficult to achieve given infill apartments are a response to the dimensions of traditional residential lot sizes in suburban areas such as Nelson Bay, which are narrow and deep, and are often surrounded by a combination of detached houses and flat buildings from previous eras.</p> <p>Therefore, the reduced side setbacks have been informed by the narrow dimensions of the site. To mitigate the reduced building separation, the development includes the following measures:</p>	
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	<ul style="list-style-type: none"> • Fenestration that avoids neighbouring habitable spaces where possible; • Splayed external walls of master bedrooms to allow natural light from the north and negate the need for side facing windows; • Windows restricted in size and obscure glass applied for bathrooms along east and west elevations; • Louvered screening devices to be provided for all habitable rooms along east and west elevations (as per recommended condition); • Stepped design approach for north facing living areas and decks; • Landscape treatment to screen the communal pool and terrace area; • The use of landscaping, wall articulation, materials and finishes to ameliorate visual impact; and • Main living spaces being provided with larger openings orientated to the front (north) and rear (south) of the site to achieve reasonable levels of external and internal visual privacy. <p>There other recent RFB developments in Nelson Bay (Magnus Street) that have followed similar a similar design approach. It is also noted the adjoining units along Thurlow Avenue are comprised of older apartment stock and do not conform to ADG side setback distances.</p> <p>Additionally, the applicant submitted a test of adequacy, with drawings prepared for No. 8 Thurlow Avenue demonstrating a similar development could be supported on the adjoining site and delivery satisfactory outcomes for residents.</p> <p>The restricted views along the eastern and western elevations have been offset through the large openings at the front and rear of the apartments.</p> <p>Despite the numerical non-compliance, the design strategies adopted have achieved an acceptable outcome given the infill typology of the site and development.</p>	
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<p>3F-2 Visual Privacy Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</p>	<p>The development incorporates a number of features including; orientation, siting, screening, landscaping, setbacks and window offsets, to achieve a reasonable level of privacy without compromising solar access and ventilation.</p> <p>A condition has been recommended for the inclusion of screening devices for windows located nearby neighbouring habitable spaces.</p>	Yes – complies.
<p>3G-1 Pedestrian Access and Entries Building entries and pedestrian access connects to and addresses the public domain.</p>	<p>The proposed residential building entry provides pedestrian access to Thurlow Avenue.</p>	Yes – complies.
<p>3G-2 Pedestrian Access and Entries Access, entries and pathways are accessible and easy to identify.</p>	<p>The proposed lobbies will be visible from the public domain.</p>	Yes – complies.
<p>3G-3 Pedestrian Access and Entries Large sites provide pedestrian links for access to streets and connection to destinations.</p>	<p>The proposed development does not require the provision of a pedestrian link through the site.</p>	N/A
<p>3H-1 Vehicle Access Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</p>	<p>The vehicle access ramp is located along the southern boundary. The ramp achieves adequate manoeuvrability and sight lines.</p> <p>Separate pedestrian entry has been provided to ensure there are no conflicts with vehicles.</p> <p>Given the fall of the site, the driveway door is largely imperceptible when viewed from Thurlow Avenue.</p>	Yes – subject to conditions of consent.
<p>3J-1 Bicycle and Car Parking Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.</p> <p>Numerical design criteria:</p>	<p>The site is zoned R3. The site is not located within proximity to land zoned B3 Commercial Core or B4 Mixed Use.</p>	N/A.

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<ul style="list-style-type: none"> on sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever less.</p> <p>The car parking need for a development must be provided off-street.</p>		
<p><i>3J-2 Bicycle and Car Parking</i></p> <p>Parking and facilities are provided for other modes of transport.</p>	<p>Visitor and resident parking provided, with a two (2) space visitor parking shortfall proposed. The shortfall is discussed under Part B9 of this report.</p> <p>Whilst no specific bicycle storage is identified, each dwelling is provided with its own secure double garage contained in the basement area, providing flexibility for bicycle storage.</p>	<p>No –visitor parking shortfall.</p>
<p><i>3J-3 Bicycle and Car Parking</i></p> <p>Car park design and access is safe and secure</p>	<p>The proposed basement car parks will be secured by garage doors and provide reasonable sight lines throughout (including to the proposed lifts). Ramp configuration is via a two-way system.</p> <p>Conditions have been recommended requiring lighting and definition of key circulation areas through colour/line marking.</p>	<p>Yes – complies subject to conditions of consent.</p>
<p><i>3J-4 Bicycle and Car Parking</i></p> <p>Visual and environmental impacts of underground car parking are minimised.</p>	<p>The visual and environmental impacts of the proposed basement car park have been minimised through the selection of appropriate finishes.</p>	<p>Yes – complies.</p>

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<p><i>3J-5 Bicycle and Car Parking</i></p> <p>Visual and environmental impacts of on-grade car parking are minimised.</p>	No on-grade car parking is proposed.	N/A
<p><i>3J-6 Bicycle and Car Parking</i></p> <p>Visual and environmental impacts of above ground enclosed car parking area minimised.</p>	No above ground car parking is proposed.	N/A
<p><i>4A-1 Solar and Daylight Access</i></p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> • In all other areas (i.e. areas outside Sydney metropolitan area, Newcastle and Wollongong local government areas), living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter • A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. 	<p>The applicant has demonstrated that 8 of the 12 units receive three or more hours of direct sunlight to living rooms and private open spaces. Further, none of the units receive no direct sunlight between 9am and 3pm in mid-winter. No single aspect units are proposed as part of the development.</p> <p>Apartments 2 and 3 are located on the northern side, with unobstructed sunlight to the living areas and private open space.</p> <p>Apartment 1 is orientated to the south, however living rooms and bedrooms have been located on the respective east and west side walls to access morning and afternoon sun.</p> <p>Albeit, not all units receive 3 hours direct sunlight between 9 am and 3 pm at mid-winter, the applicant justified the design approach based on all apartments having east and west walls allowing all living rooms and bedrooms access to some form of natural light. Furthermore, the applicant notes the shallow apartment depth and generous windows to living areas being conducive for light penetration along with full exposure to the western sun for south facing decks.</p>	Satisfactory solution.
<p><i>4A-2 Solar and Daylight Access</i></p> <p>Daylight access is maximised where sunlight is limited.</p>	The development provides opportunities for reflected light through north facing balconies that act as light shelves.	Yes – complies.

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<p><i>4A-3 Solar and Daylight Access</i></p> <p>Design incorporates shading and glare control, particularly for warmer months.</p>	<p>A number of design features have been incorporated or conditioned including; balconies that extend far enough to shade summer sun but still enable winter sun to penetrate living areas, shading devices such as eaves, awnings, balconies. A condition has been recommended that horizontal shading is applied to north facing windows.</p>	<p>Yes – complies.</p>
<p><i>4B-1 Natural Ventilation</i></p> <p>All habitable rooms are naturally ventilated.</p>	<p>A total of 100% of residential units are cross ventilated and the maximum overall depth of a cross-over or cross through apartment does not exceed 18m which facilitates natural ventilation.</p> <p>Windows and sliding doors have been included to facilitate cross flow.</p>	<p>Yes – complies.</p>
<p><i>4B-2 Natural Ventilation</i></p> <p>The layout and design of single aspect apartments maximises natural ventilation.</p>	<p>No single aspect apartments.</p>	<p>N/A</p>
<p><i>4B-3 Natural Ventilation</i></p> <p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for Residents.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> • At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. • Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line. 	<p>The development achieves 100% of apartments being cross-ventilated, with each unit occupying a corner location.</p> <p>The maximum overall depth of a cross-over or cross through apartment is 8m.</p>	<p>Yes – complies.</p>
<p><i>4C-1 Ceiling Heights</i></p> <p>Ceiling height achieves sufficient natural ventilation and daylight access.</p> <p>Numerical design criteria: Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> • Habitable rooms – 2.7m. • Non-habitable rooms – 2.4m. 	<p>The following ceiling heights have been provided:</p> <p>Habitable room - 2.7 m, Non-habitable - 2.4 m.</p>	<p>Yes – complies.</p>

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<ul style="list-style-type: none"> Two storey apartments – 2.7m for main living area floor and 2.4 m for second floor where it does not exceed 50% of the apartment area. Attic spaces – 1.8m at the edge of the room with a 30 degree minimum ceiling slope. If located in mixed use areas – 3.3m for ground floor and first floor to promote future flexibility of use. 		
<p>4C-2 Ceiling Heights</p> <p>Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.</p>	This objective has been achieved through compliance with the numerical requirements of control 4C-1 as outlined above.	Yes – complies.
<p>4C-3 Ceiling Heights</p> <p>Ceiling heights contribute to the flexibility of building use over the life of the building.</p>	The residential ceiling heights comply with control 4C-1 and are considered satisfactory.	Yes – complies.
<p>4D-1 Apartment Size and Layout</p> <p>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.</p> <p>Numerical design criteria: Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> Studio – 35 m² One bedroom – 50 m² Two bedroom – 70m² Three bedroom – 90m² An additional 5m² is required for apartments with more than one bathroom. An additional 12m² is required for a fourth, and further additional bedrooms. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may 	<p>The following minimum internal areas have been proposed:</p> <ul style="list-style-type: none"> Apartment type 1 (two bedroom) – 112 m², Apartment type 2 (three bedroom) – 132 m², and Apartment type 3 (three bedroom) – 145 m². <p>All of the proposed apartments comply with the minimum areas required by the design criteria. All habitable rooms will have a window in an external wall.</p>	Yes – complies.

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not be borrowed from other rooms.		
<p><i>4D-2 Apartment Size and Layout</i></p> <p>Environmental performance of the apartment is maximised.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan layout (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window. 	<p>All habitable rooms, with the exception of open plan layouts are less than 7.5m in depth which equates to 2.5-3 x the ceiling height.</p> <p>In open plan layout apartment the maximum habitable room depth does not exceed 8m from a window.</p>	Yes – complies.
<p><i>4D-3 Apartment Size and Layout</i></p> <p>Apartment layouts are designed to accommodate a variety of household activities and needs.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space). Bedrooms have a minimum dimension of 3m (excluding wardrobe space). Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> One bedroom apartments - 3.6m. Two or three bedroom apartments – 4m. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts. 	<p>Proposed master bedrooms have a minimum area of 10m² and other bedrooms 9m², with a minimum dimension of 3m (excluding wardrobe space).</p> <p>All living rooms have a minimum width of 4m and the width of cross-over or cross-through apartments are at least 4m.</p>	Yes – complies.

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<p><i>4E-1 Private Open Space and Balconies</i></p> <p>Apartments provide appropriately sized private open space and balconies to enhance residential amenity.</p> <p>Numerical design criteria – all apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> • Studio apartments – 4m². • One bedroom apartments – 8m² with a depth of 2m. • Two bedroom apartments – 10m² with a depth of 2m. • Three + bedroom apartments – 12m² with a depth of 2.4m. • For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m 	<p>The proposed development generally provides unit balconies as follows:</p> <ul style="list-style-type: none"> • Apartment type 1 (two bedroom) – 14.6 m², • Apartment type 2 (three bedroom) – 17.2 m², and • Apartment type 3 (three bedroom) – 17.2 m². <p>Given the fall of the site and the use of basement parking acting as a de facto podium element, the use of decks for ground level units for private open is acceptable.</p>	<p>Yes – minor variation supported.</p>
<p><i>4E-2 Private Open Space and Balconies</i></p> <p>Primary private open space and balconies are appropriately located to enhance liveability for residents.</p>	<p>The proposed balconies are located adjacent to living areas, therefore extending the living spaces of the apartments. Insofar as is reasonably possible, the proposed balconies and terraces will face north, north-east, and east.</p>	<p>Yes – complies.</p>
<p><i>4E-3 Private Open Space and Balconies</i></p> <p>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</p>	<p>The balcony design has been appropriately integrated into the architectural form of the building. A combination of solid and glazed balustrading has been incorporated which provides opportunity for screening of residential structures such as clothes drying areas.</p> <p>Should Council resolve to approve the development, conditions requiring the design integration of air-conditioning units, clothes drying areas and water and gas outlets have been recommended.</p>	<p>Yes – complies subject to conditions of consent.</p>

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<p><i>4E-4 Private Open Space and Balconies</i></p> <p>Private open space and balcony design maximises safety.</p>	<p>The proposed balcony design achieves an adequate level of safety.</p>	<p>Yes – complies.</p>
<p><i>4F-1 Common Circulation and Spaces</i></p> <p>Common circulation spaces achieve good amenity and properly service the number of apartments.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> For buildings less than ten storeys in height the maximum number of apartments off a circulation core on a single level is eight. 	<p>The development includes a single circulation core. Three (3) units per level are accessed from the single core.</p>	<p>Yes – complies.</p>
<p><i>4F-2 Common Circulation and Spaces</i></p> <p>Common circulation spaces promote safety and provide for social interaction between residents.</p>	<p>The common circulation spaces are safe and secure. Conditions have been included that common circulation spaces are to include lighting.</p>	<p>Yes – subject to conditions.</p>
<p><i>4G-1 Common Circulation and Spaces</i></p> <p>Adequate, well designed storage is provided in each apartment.</p> <p>Numerical design criteria –in addition to storage in kitchens, bathrooms and bedrooms the following storage is provided:</p> <ul style="list-style-type: none"> Studio apartments – 4m². One bedroom apartments – 6m². Two bedroom apartments – 8m². Three + bedroom apartments – 10m². At least 50% of the required storage is to be located within the apartment. 	<p>Storage has been provided within the proposed units, supplemented with storage within the basement levels.</p> <p>Storage provided to all units achieves the minimum requirements.</p>	<p>Yes – complies.</p>

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<p><i>4G-2 Common Circulation and Spaces</i></p> <p>Additional storage is conveniently located, accessible and nominated for individual apartments.</p>	<p>Secure and accessible resident storage will be located in the proposed basements via storage rooms.</p>	<p>Yes – complies.</p>
<p><i>4H-1 Acoustic Privacy</i></p> <p>Noise transfer is minimised through the siting of buildings and building layout.</p>	<p>Noise transfer will be minimised through apartment design and separation together with the location of service areas in the proposed basements.</p>	<p>Yes – complies.</p>
<p><i>4H-2 Acoustic Privacy</i></p> <p>Noise impacts are mitigated within apartments through layouts and acoustic treatments.</p>	<p>The proposed layouts will adequately mitigate any potential noise impacts within apartments.</p>	<p>Yes – complies.</p>
<p><i>4J-1 Noise and Pollution</i></p> <p>In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.</p>	<p>The proposed development is not located in a noisy or hostile environment, such as near a major road, rail line or beneath a flight path.</p>	<p>N/A.</p>
<p><i>4J-2 Noise and Pollution</i></p> <p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</p>	<p>The proposed development is not located in a noisy or hostile environment, such as near a major road, rail line or beneath a flight path.</p>	<p>N/A</p>
<p><i>4K-1 Apartment Mix</i></p> <p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p>	<p>A range of apartment types and sizes have been provided, including two bedroom and three bedroom units, which adequately caters for different household types.</p>	<p>Yes – complies.</p>
<p><i>4K-2 Apartment Mix</i></p> <p>The apartment mix is distributed to suitable locations within the building.</p>	<p>The apartment mix is suitably distributed throughout the development.</p>	<p>Yes – complies.</p>

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<p><i>4L-1 Ground Floor Apartments</i></p> <p>Street frontage is maximised where ground floor apartments are located.</p>	<p>Given the fall of the site, the ground floor apartment is elevated above the street frontage. The ground floor apartment is accessible through the shared pedestrian access.</p> <p>The provision of deep soil planting provides adequate street level activation.</p>	Yes – acceptable solution.
<p><i>4L-2 Ground Floor Apartments</i></p> <p>Design of ground floor apartments delivers amenity and safety for residents.</p>	The elevation of private open space above street level, the inclusion of deep soil plantings and fenestration scheme delivers an acceptable level of amenity for ground floor residents.	Yes – acceptable solution.
<p><i>4M-1 Facades</i></p> <p>Building facades provide visual interest along the street while respecting the character of the local area.</p>	The proposed building facades will provide visual interest along the adjoining public streets through the use of projecting decks, balanced vertical and horizontal proportions and a range of finishes and materials.	Yes – complies.
<p><i>4M-2 Facades</i></p> <p>Building functions are expressed by the façade.</p>	Building entries will be clearly defined.	Yes – complies.
<p><i>4N-1 Roof Design</i></p> <p>Roof treatments are integrated into the building designed and positive respond to the streets.</p>	<p>The development adopts a simple low pitched roof line, which integrates to the overall building size, scale and form.</p> <p>An extended parapet wall is proposed to screen the buildings lift overrun, mechanical ventilation, master antenna and other services.</p> <p>A condition of consent has been recommended to ensure that all roof mounted equipment is concealed within the external walls of the development or adequately screened so as not to be visible from a public place.</p>	Yes – subject to conditions.
<p><i>4N-2 Roof Design</i></p> <p>Opportunities to use roof space for residential accommodation and open space are maximised.</p>	The development does not utilise roof space for residential accommodation or open space.	N/A.

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<p>4N-3 Roof Design</p> <p><i>Roof design incorporates sustainability features.</i></p>	<p>PV solar panels can be supported at roof level as advised by the applicant.</p>	<p>Yes – complies.</p>
<p>4O-1 Landscape Design</p> <p>Landscape design is viable and sustainable.</p>	<p>The development incorporates street tree plantings and landscaping on the ground level.</p> <p>Council staff have assessed the proposed landscaping design and consider it appropriate for the site and area.</p> <p>Conditions requiring specific street tree plantings and the submission of a detailed landscape plan (including construction detail) prior to issue of Construction Certificate have been recommended.</p>	<p>Yes – complies subject to conditions.</p>
<p>4O-2 Landscape Design</p> <p>Landscape design contributes to the streetscape and amenity.</p>	<p>Subject to the recommended conditions of consent the proposed landscape design is considered to contribute to the streetscape.</p>	<p>Yes – subject to conditions.</p>
<p>4P-1 Planting on Structures</p> <p>Appropriate soil profiles are provided.</p>	<p>The applicant has provided preliminary landscape plans and specifications by 'Soulscape Landscape Architects' which demonstrate appropriate soil profiles are provided.</p> <p>Subject to conditions of consent the proposed planting on structures is considered appropriate.</p>	<p>Yes – subject to conditions.</p>
<p>4P-2 Planting on Structures</p> <p>Plant growth is optimized with appropriate selection and maintenance.</p>	<p>The applicant has provided preliminary landscape plans and specifications by 'Soulscape Landscape Architects' which demonstrate appropriate soil profiles are provided.</p> <p>Subject to conditions of consent the proposed planting on structures is considered appropriate.</p>	<p>Yes – subject to conditions.</p>
<p>4P-3 Planting on Structures</p> <p>Planting on structures contributes to the quality and amenity of communal and public open spaces.</p>	<p>Subject to conditions of consent, the proposed landscape design is considered to include appropriate planting on structures in communal open space areas.</p>	<p>Yes - complies.</p>

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<p><i>4Q-1 Universal Design</i></p> <p>Universal design features are included in apartment design to promote flexible housing for all community members.</p> <p>Numerical design criteria:</p> <ul style="list-style-type: none"> • A benchmark of 20% of the total apartments incorporate the Liveable Housing Guidelines silver level universal design features. 	<p>The development provides no residential units that comply with the silver level Liveable Housing Guidelines. This is considered acceptable given the scale of the development.</p>	<p>No – minor variation supported.</p>
<p><i>4Q-2 Universal Design</i></p> <p>A variety of apartments with adaptable designed are provided.</p>	<p>No accessible car parking spaces have been provided. However, this is considered acceptable given the small number of units proposed.</p>	<p>No – minor variation supported.</p>
<p><i>4Q-3 Universal Design</i></p> <p>Apartment layouts are flexible and accommodate a range of lifestyle needs.</p>	<p>No universally designed apartments proposed.</p>	<p>No – minor variation supported.</p>
<p><i>4R-1 Adaptive Reuse</i></p> <p>New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.</p>	<p>The proposed development does not involve any additions to existing buildings.</p>	<p>N/A</p>
<p><i>4R-2 Adaptive Reuse</i></p> <p>Adapted buildings provide residential amenity while not precluding future adaptive reuse.</p>	<p>The proposed development does not involve any additions to existing buildings.</p>	<p>N/A</p>
<p><i>4S-1 Mixed Use</i></p> <p>Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.</p>	<p>The development is for residential purposes only, with no commercial component.</p>	<p>N/A</p>
<p><i>4S-2 Mixed Use</i></p> <p>Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents.</p>	<p>The development is for residential purposes only, with no commercial component.</p>	<p>N/A</p>

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<p><i>4T-1 Awnings and Signage</i></p> <p>Awnings are well located and complement and integrate with the building design.</p>	Awnings have been suitably integrated into the design.	Yes – complies.
<p><i>4T-2 Awnings and Signage</i></p> <p>Signage responds to the context and desired streetscape character.</p>	Signage or street awnings are not proposed under this application.	N/A
<p><i>4U-1 Energy Efficiency</i></p> <p>Development incorporates passive environmental design.</p>	<p>A valid BASIX certificate has been submitted. Adequate natural light will be provided to habitable rooms.</p> <p>A condition requiring the incorporation of screened outdoor clothes drying areas for each unit has been recommended.</p>	Yes – subject to conditions of consent.
<p><i>4U-2 Energy Efficiency</i></p> <p>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.</p>	A valid BASIX certificate has been provided. The development is considered to incorporate sufficient passive solar design to optimise heat storage in winter and reduce heat transfer in summer.	Yes – complies.
<p><i>4U-3 Energy Efficiency</i></p> <p>Adequate natural ventilation minimises the need for mechanical ventilation.</p>	The proposed development is generally compliant with the ADG's design criteria for 4B-3 Natural Ventilation.	Yes – complies.
<p><i>4V-1 Water Management and Conservation</i></p> <p>Potable water use is minimised.</p>	A valid BASIX certificate has been provided. Should Council resolve to approve the development a condition of consent requiring compliance with the BASIX requirements should be imposed.	Yes – complies subject to conditions of consent.
<p><i>4V-2 Water Management and Conservation</i></p> <p>Urban stormwater is treated on site before being discharged to receiving waters.</p>	The proposed development includes a stormwater treatment system to ensure that stormwater is appropriately treated prior to discharge.	Yes – complies.

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<p><i>4V-3 Water Management and Conservation</i></p> <p>Flood management systems are integrated into the site design.</p>	<p>A stormwater detention tank is proposed in the basement level. The detention and rainwater tanks have been appropriately integrated into the design.</p>	<p>Yes – complies.</p>
<p><i>4W-1 Waste Management</i></p> <p>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</p>	<p>Adequate residential bin storage areas have been provided within a screened enclosure in the front setback. A condition has been imposed that a waste management plan be prepared prior to the release of a Construction Certificate.</p> <p>Waste removal can be serviced by Council.</p>	<p>Yes – complies.</p>
<p><i>4W-2 Waste Management</i></p> <p>Domestic waste is minimised by providing safe and convenient source separation and recycling.</p>	<p>Adequate residential bin storage areas have been provided.</p>	<p>Yes – complies.</p>
<p><i>4X-1 Building Maintenance</i></p> <p>Building design detail provides protection from weathering.</p>	<p>Robust materials have been proposed and design solutions such as use of roof overhangs to protect walls have been incorporated.</p>	<p>Yes – complies.</p>
<p><i>4X-2 Building Maintenance</i></p> <p>Systems and access enable ease of maintenance.</p>	<p>Accessible services areas have been proposed.</p>	<p>Yes – subject to conditions.</p>
<p><i>4X-3 Building Maintenance</i></p> <p>Material selection reduces ongoing maintenance costs.</p>	<p>Robust materials that will weather well have been proposed.</p> <p>Should Council resolve to approve the development, conditions requiring sensors to control artificial lighting in common spaces, graffiti removal and robust and durable materials in common circulation areas and lift interiors should be imposed.</p>	<p>Yes – complies, subject to conditions of consent.</p>

Port Stephens Local Environmental Plan 2013 (LEP2013)**Clause 1.3 – Land to which Plan applies**

Port Stephens LEP2013 applies to land identified upon the 'Land Application Map'. The subject development occurs upon land located within the land application. LEP2013 applies to the development.

Clause 1.9A – Suspension of covenants, agreements and instruments

Clause 1.9A provides that for the purpose of enabling development on land in any zone to be carried out, any agreement, covenant or other similar instrument that restricts the carrying out of that

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development does not apply, to the extent necessary to achieve enable the development to occur. Clause 1.9A does not apply to covenants imposed by Council or other instruments such as bio-banking agreements.

There are no applicable covenants, agreements and instruments, accordingly, relevant to the development, accordingly clause 1.9A does not apply.

Clause 2.3 – Zone Objectives and Land Use Table

The site is zoned R3 Medium Density Residential the objectives of the zones are:

- *To provide for the housing needs of the community within a medium density residential environment;*
- *To provide a variety of housing types within a medium density residential environment; and*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The development addresses the objectives by providing additional housing in an area identified for this type of development. The development will assist in creating critical mass in the local economy. The surrounding area includes commercial and retail spaces, medical and government facilities, and recreational land uses that will be complemented by the proposal and future occupants. In addition the development will encourage employment through the construction stage and by increasing the population surrounding the town centre of Nelson Bay. The proposed development meets the zone objectives in this regard.

Clause 2.7 – Demolition requires development consent

Clause 2.7 identifies that the demolition of a building or work may be carried out only with development consent, unless identified as exempt development under an applicable environmental planning instrument.

The proposed development requires the demolition of the existing residential development. Conditions of consent have been provided in order to mitigate potential impacts to adjoining properties and the locality during demolition works.

Clause 4.1B - Minimum Site Area for Dual Occupancy, Multi Storey Dwelling Housing and Residential Flat Buildings

Pursuant to the provisions of this Clause, a residential flat building within the R3 residential zone requires a minimum site area of 450m². The application is consistent with the requirements of this part, having a combined area of 674m².

Clause 4.3 – Height of Buildings

Clause 4.3 aims to ensure that the height of buildings is appropriate for the context and character of the area, and to ensure that building heights reflect the hierarchy of centres and land use structure. To achieve these aims, clause 4.3(2) specifies that the height of a building on any land is not to exceed the maximum height shown for the land on the 'Height of Buildings Map' (HBM). The HBM identifies a 15m height limit applies to the subject development.

The proposed development has a maximum height of 17.5 m and exceeds the height limit by 2.5 m or 16%. However, as identified earlier in this report the 'Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program ('NB Strategy') was

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adopted by Council at its meeting of 25 September 2018. The NB Strategy endorsed a 17.5m building height and 2.5:1 FSR for the subject site.

The Planning Proposal (PP) which seeks to deliver three of the adopted actions from the NB Strategy, including the adoption of the identified increased building heights for the Nelson Bay Town Centre was submitted to the Department of Planning and Environment (DPE) in May for Gateway determination. The PP will not be publically exhibited until such time that DPE issue the Gateway determination. Until a PP has been publically exhibited it does not form a relevant consideration for a consent authority in the determination of a development application. Accordingly, the current 15m building height as identified on the HBM is the relevant height control applicable to the subject development.

Notwithstanding, the maximum building height of 15m prescribed under clause 4.3 is a development standard and may be varied in accordance with clause 4.6 of the PSLEP2013. As such, the applicant has submitted a clause 4.6 seeking to vary the maximum building height development standard, as outlined below.

The maximum height of the building varies slightly, due to the slope of the site. The exceedance in the maximum building height is illustrated in **Figure 4 and 5** below:

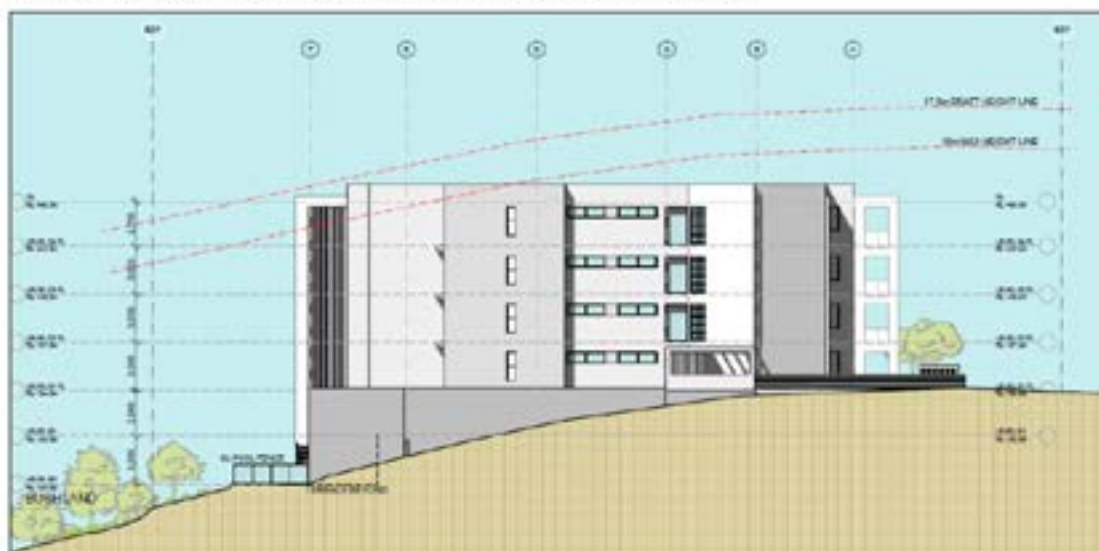


Figure 4: Western elevation

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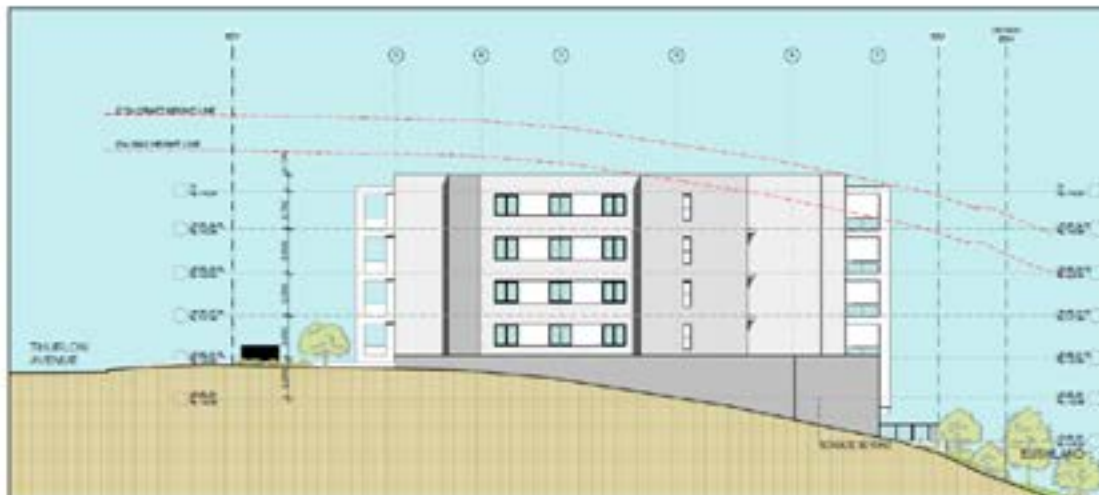


Figure 5: Eastern elevation

Clause 4.6 – Exceptions to development standards

Clause 4.6 provides a mechanism to vary the development standards, such as building height, prescribed within PSLEP2013. The objectives of the clause are to provide an appropriate degree of flexibility in applying certain development standards to particular development, and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6(3) – Request to vary development standards

Clause 4.6(3) provides that development must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- a. *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- b. *that there are sufficient environmental planning grounds to justify contravening the development standard.'*

In addition, Clause 4.6(4) specifies that development consent must not be granted for development that contravenes a development standard unless:

- a. *the consent authority is satisfied that:*
 - i. *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii. *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b. *the concurrence of the Secretary has been obtained'*

The applicant has submitted a Clause 4.6 variation request, prepared by Piper Planning and dated 17 December 2019, to Clause 4.3 (height of buildings) which nominates a maximum height limit of 15m for the subject site. The proposed development has a maximum height of 17.5 m and exceeds

the height limit by 2.5 m or 16%. Due to the extent of the variation proposed, being over 10%, Secretary's concurrence is assumed under a full Council meeting.

Clause 4.6(3)(a) – Compliance is unreasonable or unnecessary

The proposed variation from the development standard is assessed against the accepted "5 Part Test" for the assessment of a development standard variation established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council (2007) LEC 827*. In the decision of *Wehbe vs Pittwater Council (2007) LEC 827*, Chief Justice Preston expressed the view that there are five (5) different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. This attributes to determining whether compliance with the standard is unreasonable or unnecessary in the circumstances of the case.

The assessment of the applicant's Clause 4.6 variation request and "5 Part Test" is set out below.

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard.

The applicant argued that the development is in-keeping with objectives of the standard. The key reasons provided by the applicant have been summarised below.

- The objectives of the standard are achieved notwithstanding non-compliance with the standard.
- The localised height exceedances are a result of the topography falling in the northern portion of the allotment.
- The upper most projection of the development is located centrally to the rear of the lot and so is obscured from the immediate public domain of Thurlow Avenue.
- Views to the site from the Nelson Bay foreshore are filtered and obtained at a distance, which serves to mitigate the visual impact of the height exceedance.
- The outer edges of the building (balcony roof projection) will serve to obscure the maximum height and so it is not readily discernible. The applicant contends that given the limited extent of the proposed variation, light visual mass and permeability, will not be excessively dominant.
- Given existing contextual influences, the design is considered appropriate amongst the built form context across the broader locality.
- The areas of exceedance are intrinsic to the architectural form and are of a minor extent.
- The design of the structure is considered appropriate in terms of its architectural form. The design presents visual interest through its defined architectural style. Massing is broken down by use of articulation, fenestration and material finishes. The building incorporates modulated visual elements, which further serve to reduce visual scale and provide architectural interest.
- The locality is undergoing a change and as a result, many sites are realising the potential inferred by the Zone provisions. Developments are utilising this strategic facility to elevate

along the northern elevation in order to obtain water viewing opportunities to the north. This is resulting in multi storey buildings of similar scale and elevation being established in proximity to the subject lot.

- Spatial separation facilitated by the setback of the upper most floor level (where the exceedance is displayed) and the restricted viewing angles (from the footpath areas) to the non-compliant portions will mitigate the ability to discern the non-compliance. The adjoining reserve displays established endemic vegetation that is of a proportional scale to the proposal and so the visual scale and intrusion of the development is mitigated by these natural features. The non-compliant portions are intrinsic to the architectural presentation and so they will not be distinct or readily identifiable as non-compliant.
- The elevation of the development does not appear to unduly constrain amenity to adjoining lands through constraint to solar access, unacceptable visual dominance or view loss. Solar access impacts from the development are generated from compliant portions of the building.

Comment

The design of the building has been amended in line with a number of recommendations made by the UDCG and Council, further reducing the apparent height, bulk and scale of the development. The amended building design is considered appropriate for its locality, which will positively contribute to the local streetscape. The development is considered to be appropriate for the context and character of the area and reflects the hierarchy of the development surrounding the Nelson Bay town centre.

It is noted that development surrounding the site positioned within the R3 Medium Density Residential zone is of similar height and scale to the proposed development. Although the development proposes a building height exceeding the PSLEP 2013 height requirement, it is considered with to be consistent with the intended future use of Nelson Bay.

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.*

The applicant does not rely on this consideration to justify the proposed variation. The Clause 4.6 states the underlying objective or purpose of the standard is relevant to the development and is achieved as outlined above. Therefore, this provision is not applicable.

3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*

The submitted Clause 4.6 stated the underlying object would not be thwarted by compliance. This is supported by Council staff.

Comment

The written request did not provide any justification as to how the underlying object would not be thwarted by compliance in this instance.

Notwithstanding, 'strict compliance with the development standard is considered unreasonable' as:

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- It would not provide a greater diversity of housing choice;
- There are sufficient environmental planning grounds to justify contravening the development standard;
- The development standard has previously been varied for comparable developments in Nelson Bay; and
- It would discourage the promotion and co-ordination of the orderly and economic use and development of land.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard hence compliance with the standard is unnecessary and unreasonable.*

The applicant's request considered this particular aspect was not relevant in the circumstances of the variation.

Comment

The height variation is minor and limited to the rear of the site as a result of the topography of the land. Noting this, compliance with the standard is considered unreasonable.

5. *The zoning of the land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

The application does not rely on this consideration to justify the proposed variation. The zoning of the site is appropriate.

Clause 4.6(3)(b) – Sufficient environmental planning grounds

Clause 4.6(3)(b) requires an application to justify the contravention of the development standards by demonstrating that there are sufficient environmental planning grounds to justify contravening the development standard. The Clause 4.6 request states that the following environmental planning grounds have been outlined to justify contravening the height of the buildings:

- Consistent with PSLEP 2013, Part 2, Clause 2.3 – Zone Objectives and land Use Table.
- Consistent with the objectives of the development standard.
- The proposed form is consistent to the emerging built form context and compliance with the standard would be counter to context and a lesser likely outcome in terms of architectural form and amenity.
- Bulk and scale of existing and recently approved development in the locality is consistent with the proposed development.

Clause 4.6(4)(a) – Matters to be considered by consent authority

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied the Clause 4.6 Application has adequately addressed the matters set out in clause 4.6(3) of the PSLEP 2013 listed above.

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The applicant's justification for the Clause 4.6 variation to the 15m building height control is considered to have adequately demonstrated that; a) compliance with the development standard is unreasonable or unnecessary, and b) sufficient environmental planning grounds exist to justify contravening the development standard.

The applicant's justification is considered to adequately support the exceedance in the nominated height limit for the subject site. Flexibility in regards to the height limit will result in a feasible outcome.

Clause 4.6(4)(a)(ii) requires the consent authority to be satisfied the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The development is considered to be in the public interest. The development is in-keeping with objectives of the standard, as the height of the development is considered appropriate for the context and character of the area and reflects the hierarchy of Nelson bay. The design of the building has also been amended in line with a number of recommendations made by Council and the UDCG.

The development addresses the objectives of the R3 Medium Density Residential Zone by providing additional housing in an area identified for this type of development. The development will assist in creating critical mass in the local economy. The surrounding area includes commercial and retail spaces, medical and government facilities, and recreational land uses that will be complemented by the proposal and future occupants. In addition, the development will encourage employment through the construction stage and by increasing the population surrounding the town centre of Nelson Bay.

The cumulative impact of the development, should the proposed variation to the development standard be allowed, is likely to result in the development of an underutilised site within Nelson Bay.

Therefore, it is considered that there is no public benefit in maintaining strict compliance with the development standard given there is no unreasonable impact that will result from the variation to the standard.

Clause 4.6(4)(b) - Concurrence of the Secretary

Concurrence of the Secretary is provided in accordance with the planning system circular PS 17-006 'Variations to development standards' (published by the Department of Planning (DPE) and dated 15 December 2017). In accordance with clause 64 of the *Environmental Planning and Assessment 2000* (EP&A Regs), PS 17-006 provides Council with the Secretary's assessment concurrence for exceptions to development standards for applications made under Clause 4.6. However, only a full council can assume the Secretary's concurrent where the variation to a numerical standard is greater than 10% or the variation is to a non-numerical standard.

Due to the extent of the variation proposed, being over 10%, Secretary's concurrence is assumed under a full Council meeting.

Conclusion

The applicant's Clause 4.6 variation request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the standard and compliance with the standard is unreasonable or unnecessary in the circumstances of the case. The variation is considered to be minor and results from the topography of the site. On this basis, the proposed development is considered to be consistent with the objectives of Clause 4.6.

The proposed variation to Clause 4.3 is considered acceptable in this instance.

Clause 7.1 – Acid Sulfate Soils

The site is mapped as containing potential 5 Acid Sulfate Soils (ASS). Class 3 and 4 Acid Sulfate Soils (ASS) are located within 500m of the site. Albeit unlikely, the information submitted with the application has not identified if the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. Therefore as a precautionary approach, development conditions of consent have been recommended to require the undertaking of a geotechnical assessment prior to issue of Construction Certificate to determine whether the works will disturb ASS. Should ASS be encountered within the zone of works an ASS Management Plan will be required to be prepared prior to commencement of works.

Clause 7.2 – Earthworks

Clause 7.2 (2)(b) stipulates that development consent is required for the proposed earthworks. Matters outlined in Clause 7.2 (3) require the consent authority to consider matters (a) to (h).

The development results in the excavation of potentially up to 6m (footings) to facilitate construction of the ground floor level and basement parking. Excavation works are largely contained within the footprint of the building. The proposed excavation works extend laterally to the property boundary and therefore adjoining existing development including the six storey Residential Flat Building located at 12 Thurlow Avenue. In order to address the potential impacts of the excavation works to adjoining buildings, the management of construction and slope stability will be required during excavation works. A condition of consent has been imposed requiring the undertaking of a dilapidation report prepared by a structural engineer.

A geo-technical report was submitted in support of the application prepared by Valley Civilab (July 2019). The report included a slope stability assessment, subsurface profile and recommendations for footing details. Based on the findings of the report, the proposal is unlikely to disrupt drainage patterns or soil stability, impact potential future development on-site or nearby properties subject to recommendations. In accordance with Clause 98E of the *Environmental Planning and Assessment Regulations 2000*, the prescribed condition relating to works below the level of the base of the footing of adjoining properties will be incorporated into the Notice of Determination.

Conditions have been recommended requiring the preparation of a Geotechnical Monitoring Program and Compliance of Certificate demonstrating that works have been undertaken in accordance with the recommendations of the submitted geo-technical report.

Conditions of consent have been recommended, requiring the use of clean fill and stipulate measures to mitigate potential impacts derived from earthworks.

The proposal is unlikely to disrupt relics due to its disturbed nature. Nonetheless, an advisory note has been included within the recommended conditions requiring all works to cease on the site if any Aboriginal objects are uncovered during the activity.

On this basis, the application is satisfactory in regard to Clause 7.2 (3).

Clause 7.6 – Essential Services

The subject site is serviced by reticulated water, electricity and sewer. In addition, the application has demonstrated that stormwater drainage resulting from roof and hard stand areas can be catered for in accordance with Council's requirements. A condition is proposed that requires the provision of evidence that all essential services are available, prior to the issue of an occupation certificate.

Section 4.15(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition

Draft Remediation of Land State Environmental Planning Policy

The proposed Remediation of Land SEPP is intended to repeal and replace *State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)*. The draft SEPP, which was exhibited from 25 January to 13 April 2018, is currently under consideration.

The proposed SEPP seeks to provide a state-wide planning framework to guide the remediation of land, including: outlining provisions that require consent authorities to consider the potential for land to be contaminated when determining development applications; clearly lists remediation works that require development consent; and introducing certification and operational requirements for remediation works that may be carried out without development consent.

Consideration has been given to the suitability of the site with respect to potential land contamination under the SEPP 55 discussion elsewhere within this report. The subject site has been identified as suitable for the proposed development and further investigation in respect to contamination is not warranted in this instance.

Section 4.15(a)(iii) – any development control plan

Port Stephens Development Control Plan 2014 (DCP2014)

The Port Stephens Development Control Plan 2014 (DCP) is applicable to the proposed development and has been assessed below.

Section A – IntroductionChapter A.12 – Notification and Advertising

The proposal was advertised and notified in accordance with the EP&A Act, EP&A Regulations, and Chapter A of DCP2014. A detailed assessment of the submissions received is outlined elsewhere within this report.

Section B – General ControlsChapter B1 – Tree Management

The site is clear of any significant vegetation having been previously developed for the purposes of a dual occupancy. One medium tree is proposed to be removed from the front boundary. The tree identified for removal is considered to have low retention value and will be offset by landscaping and compensatory planting proposed as part of the development.

Chapter B3 – Environmental Management

Acid Sulphate Soils - The objective of this DCP Chapter is to ensure that development does not disturb, expose or drain Acid Sulfate Soils (ASS) and cause environmental damage. ASS Management has been addressed under Clause 7.1 of this report.

Noise - The separation distances incorporated into the development will limit any significant impacts on the adjoining development. The impacts of the development during construction could be limited through conditions of consent which limit construction work hours and mitigate noise derived from ventilation and air conditioning systems. Subject to conditions including the installation of noise attenuating fencing around the pool, the application is satisfactory in regards to noise management.

Earthworks - Chapter B3.F of PSDCP2014 outlines objectives and requirements in order to facilitate earthworks as to minimise potential environmental impacts, such as erosion. Conditions on the notice of determination will stipulate the use of Virgin Excavated Natural Material (VENM). Additionally, the earthworks proposed will not have a detrimental impact on drainage patterns or soil stability, subject to recommended conditions of consent. The proposal will not impact future potential development on-site and due to the cleared nature of the site it is highly unlikely that the development will disturb relics.

The proposal is consistent with requirements outlined in Councils DCP2014 relating to earthworks.

Waste - To ensure ongoing waste is managed responsibly, the development includes a waste storage areas catering for residential waste at the basement floor level. The development can be serviced by Council for waste collection. Conditions have been recommended that require waste from building works to be separated into recyclable and non-recyclable materials, the reuse of materials on-site where possible, and the disposal of all other materials at an approved facility. The waste storage area is appropriately located and design to ensure bins can be moved to the street frontage waste collection.

Chapter B4 – Drainage and Water Quality

The proposed drainage strategy comprises a detention tank in the basement level with gravity discharge/overflow to the rear boundary. The detention tank is proposed to detain and discharge all flows from roof and podium areas. Downpipes for the roof and podium areas are sized to convey the 1% AEP. Discharge of emergency overflow will be via a level spreader over the rear boundary.

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Subject to the recommended conditions of consent, the development's stormwater management system is considered satisfactory.

Chapter B6 – Essential Services

Reticulated water, electricity and sewer are available to the subject site. In addition, an acceptable stormwater management plan is required to be submitted prior to the consent becoming active. The land achieves direct access to a public road.

Chapter B9 – Road Network and Parking

Traffic Impacts and Access

The potential impacts of the development to the local road network have been assessed and it has been determined that subject to conditions of consent, the development is satisfactory. The applicant submitted a Traffic Impact Assessment, prepared by Intersect Traffic (dated December 2019) which included the results of traffic surveys undertaken at the intersection of Thurlow Avenue and Church Street, in addition to the roundabout intersection at Church Street and Government Road. The Traffic Impact Assessment concluded the surrounding road network is currently operating well within its technical capacity and additional traffic from the proposed development will not increase traffic congestion on the surrounding road network.

The proposed access arrangements were assessed in the Traffic Report and considered compliant with Australian Standard and Port Stephens Council requirements.

Council Development Engineers supported the findings of the submitted Traffic Report.

Parking

Chapter B9 figure BT identifies the on-site parking requirements for the development as follows.

The DCP outlines the following on-site car parking provisions for residential flat buildings:

- 1 car space for one or two bedroom dwellings.
- 2 car spaces for three or more bedrooms dwellings.
- 1 visitor space per three dwellings.

The proposed development includes:

- 8 x three bedroom units;
- 4 x two bedroom units.

The parking calculation is shown in the table below:

Units	DCP Requirement	Required Spaces	Spaces Provided
8 x three bedroom dwelling	2 car spaces for 3 bedrooms dwellings	16	16
4 x two bedroom units	1 car spaces for 2 bedrooms dwellings	4	4
Visitors' spaces	1 visitor space per three dwellings	4	2
Total		24	22

The proposal will provide 22 car parking spaces to service the development, which includes 20 resident parking spaces and two (2) car parking spaces for visitors. It is noted that the development

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is below the minimum car parking requirement of 24. This shortfall would be in the way of visitor car parking.

The Traffic Impact Assessment Report prepared by Intersect Traffic (December 2019) included a Parking Assessment. In justifying the two space shortfall, the Traffic Report noted the following:

1. The availability and quality of public transport servicing the site and encouragement for the use of this public transport;

The applicant noted site is ideally located to take advantage of the public transport services (buses) that run past the site. Bus stops are within easy walking distance of the site and provide services to the Nelson Bay CBD, Tomaree Community Hospital, Shoal Bay, Fingal Bay, Tea Gardens (connection to ferry service), Raymond Terrace, Newcastle Airport and Newcastle CBD. Therefore, trip making from the development can be easily done by public transport and the development should be designed to take advantage of the public transport and encourage residents to use the public transport. One proven strategy to increase public transport usage is to reduce the availability of on-site car parking in developments. The benefit of providing a reduced level of on-site car parking noting that the development still provides suitable parking for each unit is to encourage use of the existing public transport facilities.

2. The proximity of the site to the major retail and commercial area of Nelson Bay and the encouragement of alternative transport modes i.e. walking and cycling for trip making from the development;

The site is ideally located to encourage walking and cycling trips from the development to nearby services such as retail, educational, health and commercial services most of which are within 300 metres of the site. A pedestrian and cycle way network exist around the site facilitating safe and convenient travel by walking and / or cycling to the CBD and transport hubs.

The applicant argued, the development should be designed to encourage residents to choose alternative transport modes when making decisions on trip making and the reduction of available on-site car parking is a proven strategy to encourage residents to walk or cycle to nearby services.

3. The excessive visitor car parking requirement within the Port Stephens Council DCP.

The applicant noted that the Port Stephens Council DCP requires visitor car parking at the rate of 1 space per 3 dwellings. The Traffic Report suggests this is significantly higher than the visitor car parking rates for this type of development within the RTA's Guide to Traffic Generating Developments and all other Lower Hunter Council's which is 1 space per 5 dwellings or 1 per 7 dwellings where the site is within close proximity to major retail centres and public transport.

The report states the above rates have been relied upon in Land and Environment Court (LEC) decisions over many years and Port Stephens Council is likely to have difficulty in defending the DCP rate in the LEC. Further, it was suggested the provision of additional parking is not encouraging the use of public transport, walking and cycling to and from the development by visitors. If the additional parking is provided, it will result in additional traffic movements, when alternate measures are available. The report also noted if on-street car parking became a problem, it could be managed with a regulatory on-street car parking strategy in the area.

The report suggests the provision of 2 visitor car parks within the development is considered satisfactory, based on a comparable visitor car parking rate applied at one 1 visitor space per 5 dwellings.

Council Development Engineers raised no objection to the number of spaces provided and generally supported the findings of the Parking Assessment.

Chapter B10 – Social Impact

The proposed development provides additional housing opportunities that can rely upon existing social and recreational infrastructure existing within the Nelson Bay Precinct. The development provides a range of apartment types to cater for a range of housing needs. Further, during construction the development will generate short term employment opportunities. The development is considered satisfactory having regard to Chapter B10.

Chapter D6 – Nelson Bay West

Setback

This Part applies to the land identified as Nelson Bay West.

The proposed development is setback greater than 6m from the front boundary and the upper levels 2m from the side boundary, complying with the requirements D6.1 - D6.4.

The stormwater system and proposed on-site detention has been deemed satisfactory by Council development engineers.

The proposed landscaping scheme has been suitable by Councils Vegetation Management officer.

Section 4.15(1)(a)(iia) - any planning agreement or any draft planning agreement

No planning agreement relates to the site or proposed development.

Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

The *Environmental Planning and Assessment Regulations 2000* (EP&A Regs) requires the consent authority to consider the provisions of the National Construction Code – Building Code of Australia (BCA). Should the application be approved, recommended conditions of consent have been provided requiring compliance with the BCA.

Section 4.15 (1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Social and Economic Impacts

If approved, the proposed development will result in additional residential housing in the LGA. It would result in a large capital investment in the local economy and will create a number of short and indirect long term employment opportunities. Furthermore, if approved the development would attract development contributions which will be used to create and improve community facilities, public open space, sport facilities, and infrastructure and the like, further adding to the positive economic impact of this development.

The proposed development would also provide additional housing opportunities that can rely upon existing social and recreational infrastructure existing within the Nelson Bay West Foreshore precinct. The development provides a range of apartment mix to cater for a range of housing needs.

Impacts on the Built Environment

The proposed development will reinforce the residential nature of the locality and is characteristic of other developments in both the local and wider community. Due to the ageing appearance of the subject site, the proposal will significantly improve the streetscape and contribute to the character of the Nelson Bay West Foreshore precinct.

The overall aesthetics of the development are of good quality incorporating a range of materials and colours in conjunction with the articulation and modulation of building facades. Design treatments visually reduce the perception of the bulk and scale of the development, ensuring consistency with surrounding development. It is considered that the design achieves a built form that has good proportions and a balanced composition of elements. The development aligns with the intended future character of Nelson Bay, and will encourage infill development of underutilised lots in and surrounding the town centre of Nelson bay.

Although the building exceed the maximum building height as prescribed under PSLEP2013, it is considered that the bulk and scale of the building is comparable with surrounding development and reflects the desired medium density character of the Nelson Bay precinct. The proposal addresses the street and provides logical and convenient connections to the road network and pedestrian facilities in the locality. There are no anticipated adverse impacts on the built environment as a result of the proposed development.

Impacts on the Natural Environment

The development includes water quantity and quality control devices to reduce the impact of the development on the natural environment. The existing site is devoid of any natural habitat or native vegetation and there are no anticipated adverse impacts on the natural environment. The planting of a wide variety of trees, plants and shrubs, will improve the environmental values of the site and result in a betterment to natural outlook. On this basis, the impacts to the natural environment are negligible.

Section 4.15(1)(c) the suitability of the site for the development

With the exception of height, the proposed development has been designed in accordance with the applicable planning controls including SEPP 65 and the ADG. Where variations exist to ADG controls, alternative acceptable solutions have been adopted. The subject site is located within an established residential area, within close proximity to the town centre of Nelson Bay and devoid of any natural habitat or native vegetation. The site has access to all relevant services and the proposed development makes good use of the available land. The proposed development will not result in any unreasonable impacts on the amenity of surrounding development and will contribute to the revitalisation of Nelson Bay West Foreshore precinct. It is therefore considered that the site is suitable for the proposed development.

Section 4.15(1)(d) any submissions made in accordance with this act or the regulations

The proposal was advertised and notified in accordance with the EP&A Act, EP&A Regulations, and Chapter A of DCP2014. The application was placed on public exhibition for 14 days from 18 April 2019 to 2 May 2019. A total of four (4) submissions in objection to the proposal were received during this period.

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On receipt of an amended design, the application was re-exhibited for 14 days from 18 October 2019 to 1 November 2019, two (2) submissions were received during this period.

The key issues raised in these objections are outlined in the table below:

Summary of objections raised:	Response:
<p>Height and site suitability:</p> <p>Submissions noted concerns with the extent of the proposed height variation.</p>	<p>The applicant's Clause 4.6 variation request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the standard and compliance with the standard is unreasonable or unnecessary in the circumstances of the case. On this basis, the proposed development is considered to be consistent with the objectives of Clause 4.6.</p> <p>The height exceedance is considered to be minor and results from the topography of the site. Although the building exceed the maximum building height as prescribed under PSLEP2013, it is considered that the bulk and scale of the building is comparable with surrounding development and reflects the desired medium density character of the Nelson Bay precinct. Furthermore, the intent under the NB Strategy is for the site to support a 17.5m building height.</p>
<p>Design including visual impact and impacts to character of Nelson Bay:</p> <p>Submissions raised concern with the overall design of the proposed development, including that the proposal was of poor architectural merit.</p>	<p>The earlier revisions of the application were considered by the UDCG and assessed on merit to be of high quality architectural design. An amended design was submitted to address concerns raised by the UDCG.</p> <p>The development has been assessed against SEPP 65 and the ADG and has been determined to be satisfactory.</p>
<p>Non-compliance with the Apartment Design Guide (ADG) for building separation.</p>	<p>The proposed development has been assessed against the provisions of SEPP 65 and the ADG and has been determined to be generally compliant with the applicable controls. Where non-compliances exist, appropriate alternative design solutions have been adopted.</p> <p>The development does not comply with the numerical design criteria prescribed within the ADG in relation to habitable room separation. To mitigate the reduced building separation, the development includes the following measures:</p> <ul style="list-style-type: none"> • Fenestration that largely avoids neighbouring habitable spaces; • Windows restricted in size and obscure glass applied for bathrooms along east and west elevations;

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	<ul style="list-style-type: none"> • Louvered screening devices to be provided for all habitable rooms along east and west elevations; • Stepped design approach for north facing living areas and decks; • Landscape treatment to screen the communal pool and terrace area; • The use of landscaping, wall articulation, materials and finishes to ameliorate visual impact; and • Main living spaces being provided with larger openings orientated to the front (north) and rear (south) of the site to achieve reasonable levels of external and internal visual privacy. <p>The variation has been supported on its merits as the non-compliance is not considered likely to result in any unreasonable adverse impacts to adjoining properties.</p> <p>There are comparable developments in Nelson Bay which also do not numerically comply with ADG separation and setback controls given the deep and narrow composition of the lots.</p>
<p>Landscaping:</p> <p>Submissions noted concerns with; insufficient landscaping being provided, the lack of deep soil planting provided and impacts to adjoining properties as a result of the proposed landscaping.</p>	<p>The development incorporates sufficient landscape treatment through provision of on structure planting, street trees and deep soil planting in the front setback.</p>
<p>Solar access:</p> <p>Submissions raised concerns that the proposed development would adversely impact adjoining properties with respect to solar access.</p>	<p>A shadow analysis has been provided which demonstrates that the development will overshadow adjoining properties to the west, notably 8 and 12 Thurlow Avenue, however will still provide for 3 hours of solar access between 9-3pm mid-winter.</p> <p>The living areas and balconies of the apartments located at 12 Thurlow Avenue are positioned to the north, with good solar access and natural ventilation. These apartments located will still receive 3 hrs of solar access from 12pm to 3pm mid-winter post development as demonstrated on the submitted shadow diagrams. The dwelling at 8 Thurlow Avenue also receive 3 hrs of solar access from 12pm to 3pm mid-winter.</p> <p>Test of adequacy drawings have also been submitted to demonstrate solar access outcomes for future development on 8 Thurlow Avenue.</p>
<p>Privacy :</p>	<p>The development has been designed so that the proposed residential units are primarily orientated to</p>

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Submissions identified that the proposed development would adversely impact the privacy of adjoining properties.	the north (rear) and south (front). This provides passive surveillance opportunities and minimises the opportunity for overlooking of adjoining properties. Further, the development incorporates privacy screens and the inclusion of fixed windows with opaque glass to mitigate any unreasonable impacts to the privacy of adjoining properties.
View loss: Submissions identified that the proposed development would result in view loss from adjoining properties.	<i>Tenacity Consulting v Warringah</i> [2004] NSWLEC 140 sets out the planning principles established by the Land and Environment Court for assessing the impact of development upon views enjoyed from private property (i.e. the principles of view sharing). The planning principles establish that the assessment of view loss requires consideration of the following: identification of the nature and scope of existing views to be affected, consideration of where the views are obtained, and assessment of the extent of impact. The primary properties affected by the development with respect to potential view loss are 8 (east) and 12 Thurlow Avenue (west). The reduction in the building footprint from the original proposal has aligned with the rear setback of the adjoining properties. Views obtained from the adjoining properties are unlikely to be unreasonably obstructed. The main impact will be the views obtained from the side balcony on the 12 Thurlow Avenue units. These views are side boundary orientated and obtained across private property, making view protection difficult in the circumstance. On this basis the proposal is not considered to significantly or unreasonably reduce the amenity enjoyed by occupants of adjoining residential land.
Land slip: Submissions raised concern with regard to excavation and the risk of destabilisation of adjoining premises.	Conditions have been imposed requiring the preparation of a Geotechnical Monitoring Program and Compliance of Certificate demonstrating that works have been undertaken in accordance with the recommendations of the submitted geo-technical report.
Visitor parking and traffic: Submissions requested visitor parking be provided for the development.	A parking assessment was submitted in support of the application, justifying the parking shortfall based on the availability of alternate transport options and the sites close proximity to the commercial/retail facilities of Nelson Bay.
Noise: Submissions raised concern with regard to noise emissions being generated from the pool area.	A condition has been included that the motor, filter, pump, and all sound producing equipment associated with or forming part of the swimming pool filtration system must be located so as not to cause a nuisance to adjoining property owners.

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	A condition has also been recommended that the pool and communal area will be screened with 1.8m high fencing to act as a noise barrier.
Light spill: Concerns over adverse impact from external lighting.	Light spill will be comparable with other residential developments in the street. A condition has been included that lighting complies with AS 4282—1997 - Control of the obtrusive effects of outdoor lighting.

Section 4.15(1)(e) the public interest

The proposed development does not raise any significant general public interest considerations beyond the matters already discussed in this report. With the exception of height, the development is generally compliant with the applicable planning controls.

It is considered that the development will not have significant cumulative impacts on the community or the surrounding locality. The development will increase the availability of housing within the medium density zoned locality, close to the commercial core of Nelson Bay. The proposed development is considered to be in the public interest.

Other relevant plans and policies

Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program ('NB Strategy')

The subject site is located within the NB Strategy area. The NB Strategy identifies a 17.5m height limit for the subject site. Whilst the NB Strategy has been adopted by Council and the associated Planning Proposals (PP) have been submitted to the Department of Planning and Environment (DPE), the PP have not been publically exhibited and are not currently perceived as being imminent or certain. As such, the increase to the existing height limit applicable to the subject site as proposed by the NB Strategy and associated PP does not have determining weight, in the assessment of the development application.

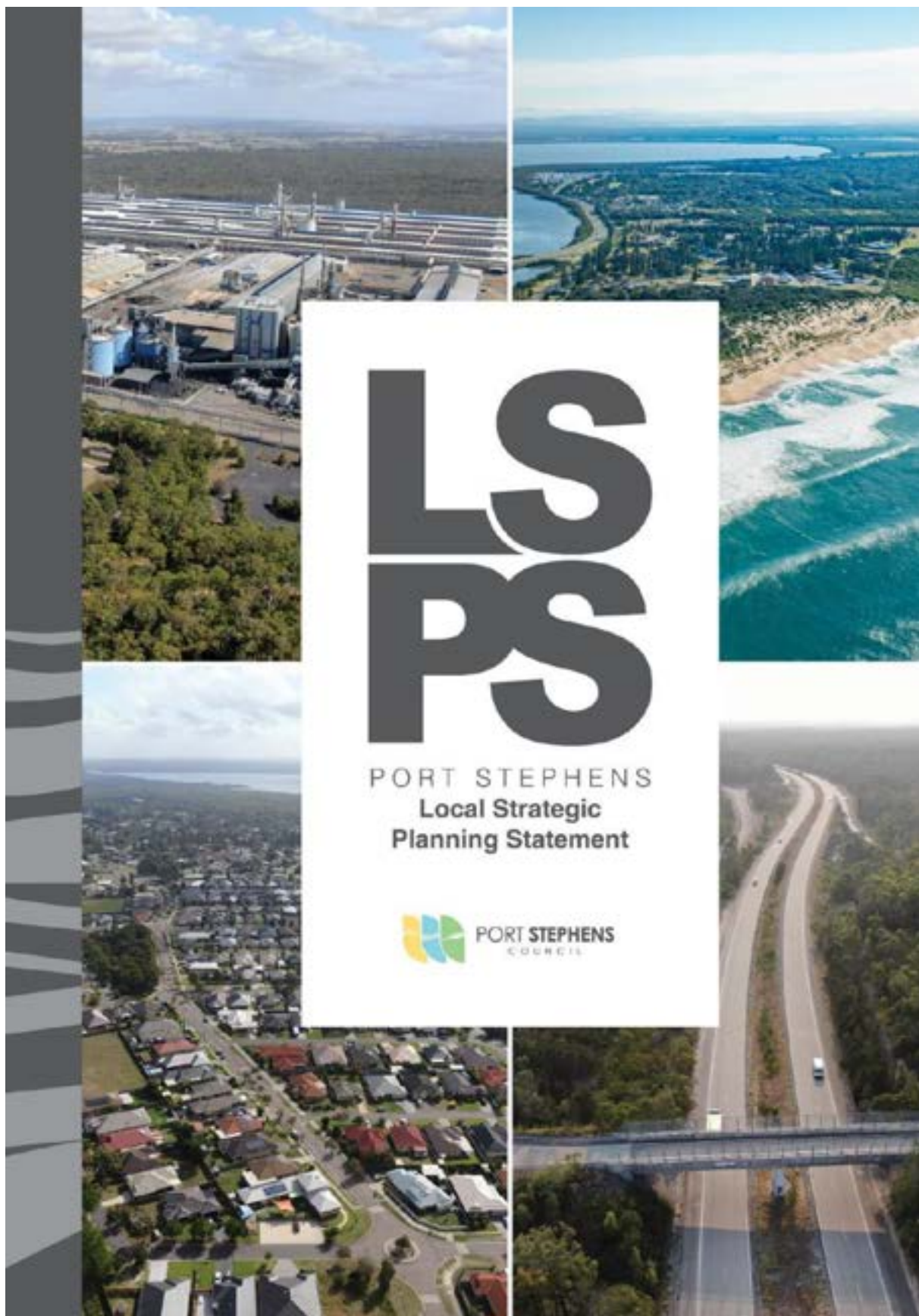
DETERMINATION

An assessment of the application has been carried out under section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposed development is considered satisfactory in terms of the relevant matters for consideration under the Act and the development application is supported for approval.

RYAN FALKENMIRE

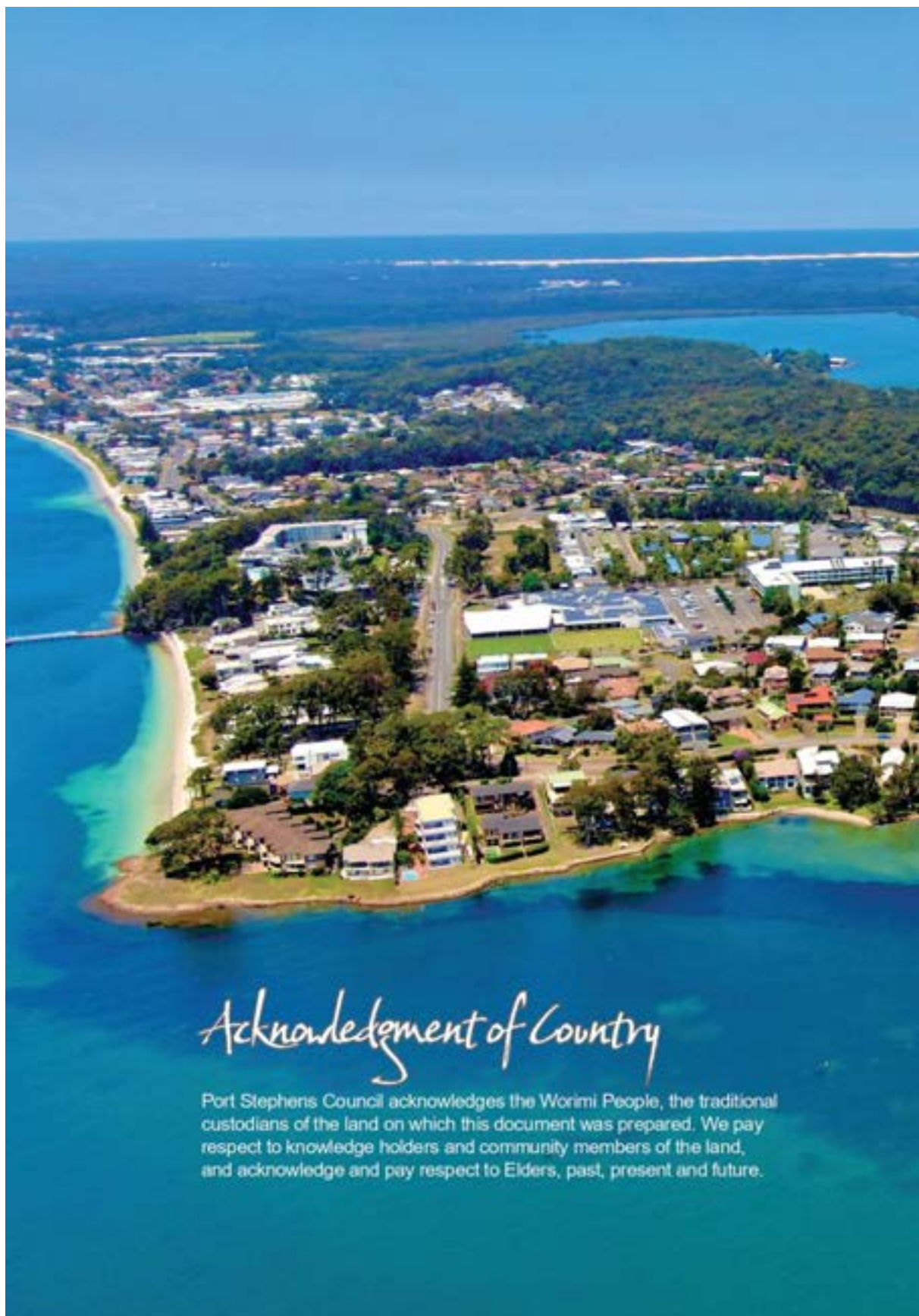
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DRAFT LOCAL STRATEGIC PLANNING



ITEM 3 - ATTACHMENT 1

DRAFT LOCAL STRATEGIC PLANNING
STATEMENT.





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Glossary

blue and green grid has the same meaning as in the Hunter Regional Plan and means the network of open space and waterways throughout Greater Newcastle, including recreation areas, bushland, farms, drinking water catchments, rivers, lakes, other waterways, and beaches.

catalyst areas are places of metropolitan significance where a planned approach, coordinated between State and local government, will drive the transformation of Greater Newcastle as a metropolitan city.

infill housing means development in areas already used for urban purposes. Specifically, the re-use of a site within the existing urban footprint for new housing.

local centres means centres of local importance, as identified in the Hunter Regional Plan, Greater Newcastle Metropolitan Plan or a local planning strategy endorsed by the NSW Department of Planning, Industry and Environment.

local plans means Local Environmental Plans (LEP) or Development Control Plans (DCP) prepared by a council for a local government area to guide planning decisions. A local plan is typically the main mechanism for determining the type and amount of development which can occur through zoning and development controls. Local plans are the main planning tool that can shape future land use and local development.

local strategies means strategies, plans and policies adopted by Port Stephens Council.

strategic centres means centres of strategic importance (as identified in the Hunter Regional Plan and Greater Newcastle Metropolitan Plan).

Abbreviations

CSP	Community Strategic Plan
DCP	Development Control Plan
DPIE	Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
GNMP	Greater Newcastle Metropolitan Plan
HRP	Hunter Regional Plan
IP&R	Integrated Planning and Reporting framework under the <i>Local Government Act 1993</i>
LALC	Local Aboriginal Land Council
LEP	Local Environmental Plan
LGA	Local Government Area
LSPS	Local Strategic Planning Statement
NSW	New South Wales

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Context

How to read this Statement

The Local Strategic Planning Statement (LSPS) identifies the 20-year vision for land use in Port Stephens. It sets out social, economic and environmental planning priorities for the future and identifies when they will be delivered. The LSPS has short, medium and long-term actions to deliver these priorities and identifies ongoing actions, which are listed separately under the heading 'Council will' for each priority.

Purpose of this Statement

The LSPS is the tool that gives local-level effect to State government regional plans by informing local statutory plan making and development controls. It also provides the link between the Port Stephens Community Strategic Plan (CSP) and land use planning. The LSPS has been prepared in accordance with section 3.9 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act).

The LSPS identifies the land use planning actions to achieve the directions in the Hunter Regional Plan 2036 (HRP), Greater Newcastle Metropolitan Plan 2036 (GNMP) and the CSP.



Figure 1 – The position of the Local Strategic Planning Statement within the NSW strategic planning hierarchy

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The LSPS will inform local plans such as the Local Environmental Plan (LEP), Development Control Plan (DCP) and Local Infrastructure Contributions Plans as well as providing a link to the local strategic planning hierarchy for centres in Port Stephens. The LSPS will shape how these plans evolve over time to meet the community's needs and vision in the CSP.

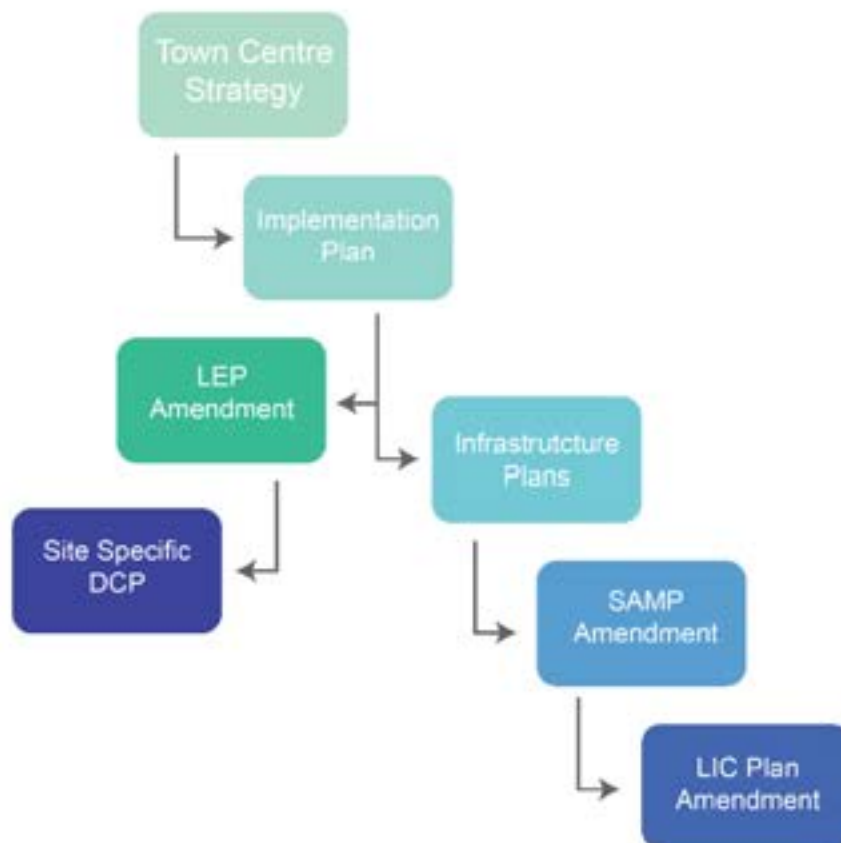


Figure 2 - Local Strategic Planning framework for centres across Port Stephens. The hierarchy outlines a suite of strategic planning documents that link planning, land use controls and local infrastructure provision in town centres

Consultation

Community consultation on the CSP was undertaken in 2018. The vision and community priorities in the CSP were established through targeted workshops with residents,

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businesses, community groups and other stakeholders at that time. The outcomes of that consultation have informed the preparation of the LSPS.

The EP&A Act requires a draft LSPS to be exhibited for a minimum 28 days.

Our Place in Greater Newcastle and the Hunter

Port Stephens Local Government Area (LGA) spans 860 square kilometres and forms part of the Hunter region, Australia's largest regional economy. It is bounded by Dungog Shire and Mid Coast Council areas to the north, Maitland City to the west, the City of Newcastle to the south. The Pacific Ocean lies to the east.

Port Stephens is home to approximately 72,700 people living in coastal communities, hinterland villages, rural retreats, or in the suburbs. Each local centre in the LGA offers housing and lifestyles that create diverse communities. In 2018, Port Stephens was the third fastest growing LGA in the Hunter (behind neighbouring Maitland and Cessnock). Port Stephens attracts residents seeking homes with strong connections to the natural environment, including our beaches, rivers and waterfronts, forests, sand dunes, or a rural outlook.

Port Stephens supports a diverse range of economic activities comprising agriculture and aquaculture, manufacturing, tourism, defence, construction and a mix of retail and small business. Proximity to Greater Newcastle employment centres and the resource rich Hunter Valley make Port Stephens an attractive location for business and residents. Raymond Terrace and Nelson Bay are regionally significant strategic centres and Tomago and Williamtown are employment centres identified as 'Catalyst Areas' in the GNMP and earmarked for significant growth and investment over the next 20 years.

Newcastle Airport at Williamtown provides a global gateway for the region and is home to the Royal Australian Air Force (RAAF) base and associated aerospace and aviation support services. The arrival of the Joint Strike Fighter is anticipated to create some 3,000 direct and indirect jobs for civilian and defence workers and the expansion of the aerospace precinct around the airport is likely to have a significant impact on the growth of Port Stephens and Greater Newcastle.

Due to its proximity to Williamtown and Tomago, as well the potential for residential growth, Medowie is likely to emerge as a strategic centre playing an important role both within Port Stephens and Greater Newcastle.

Nelson Bay and the Tomaree Peninsula are major contributors to the regional visitor economy, hosting iconic tourist destinations that attract State, national and international visitors.

Access to Newcastle Airport, the Port of Newcastle, the M1 Motorway, and regional rail corridors connects Port Stephens to Greater Newcastle, the Hunter Valley, Australian capital cities and worldwide destinations.

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Port Stephens is renowned for its scenic and natural beauty, with kilometres of coastal bushland and the largest mobile sand dunes in the southern hemisphere. The LGA is also home to environmentally significant areas with an underwater marine oasis at Tomaree, a substantial estuary system and several national parks as well as the Watagan to Stockton Green Corridor.

Port Stephens is important to the region's drinking water supply, with the Grahamstown Dam Drinking Water Catchment, the Williams River Drinking Water Catchment, and the Tomago Sandbeds located in the LGA. Given the significant commitments to invest in Port Stephens and grow the regional and local economies, Port Stephens will continue to grow. The LSPS aims to balance growth and support vibrant communities in our unique environment.

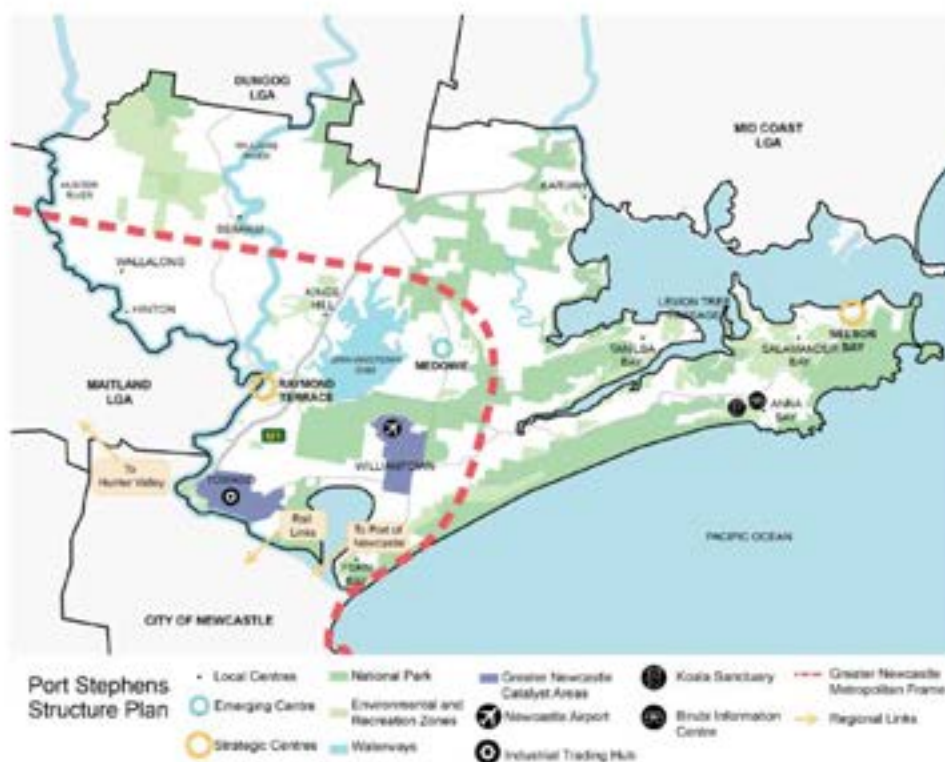
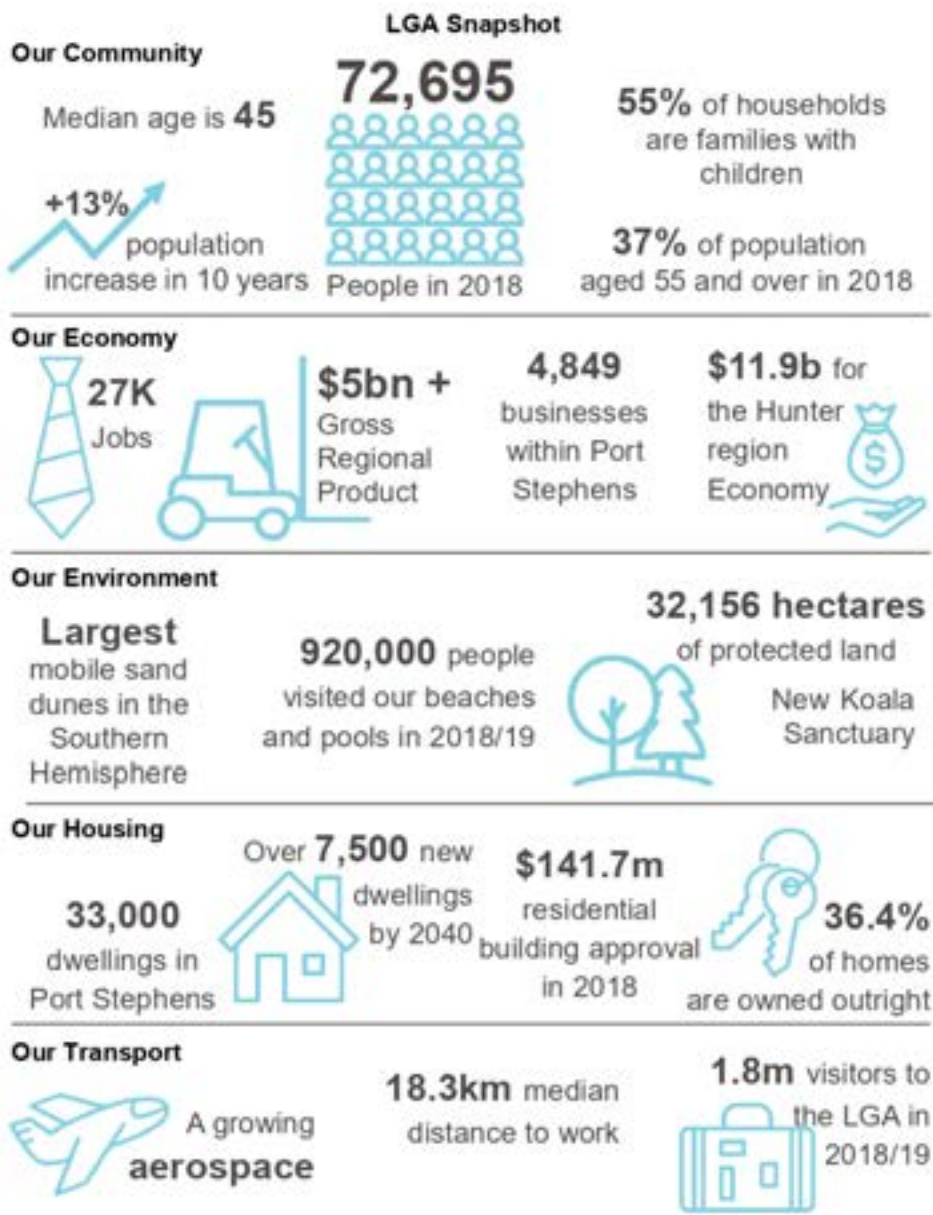


Figure 3 - Port Stephens Structure Plan

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Port Stephens 2040: A Vision

Port Stephens offers a variety of diverse centres and neighbourhoods that connect residents, visitors and workers with their community, the environment and opportunity.

Our centres are the hub of community life in Port Stephens. Residents and visitors use walking and cycling links to access local shops, schools, parks and sporting facilities. Shared spaces are activated to provide people with places to gather, celebrate and explore. New communities are planned to be healthy neighbourhoods and designed to support sustainable lifestyles.

People are attracted to Port Stephens for the strong connections to our natural areas including National Parks, wetlands, beaches and bushland. Our natural and cultural heritage is valued and reflected in the local character of our neighbourhoods and centres and communities are resilient to natural hazards such as flooding and bushfire.

Port Stephens supports a strong and varied economy with a growing national defence and aerospace hub and regionally significant manufacturing and tourism sectors. Port Stephens is the centre of an advanced transport network that provides easy local, regional and global connections and provides opportunities to export goods, services and skilled labour across Australia and the world. Opportunities for education and innovation make Port Stephens a desirable place for new business and provides a convenient lifestyle for local workers and their families.

The LSPS contains actions to achieve this vision by 2040.



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Our Planning Priorities

This table shows how state and regional plans, and the CSP have informed the priorities in the LSPS.

HUNTER REGIONAL PLAN 2036			
The leading regional economy in Australia	Greater housing choice and jobs	A biodiversity-rich natural environment	Thriving communities
GREATER NEWCASTLE METROPOLITAN PLAN 2036			
Create a workforce skilled and ready for the new economy	Deliver housing close to jobs and services	Enhance environment, amenity and resilience for quality of life	Improve connections to jobs, services and recreation
PORT STEPHENS COMMUNITY STRATEGIC PLAN 2018-2028			
Key Direction P1: Strong economy, vibrant local businesses, active investment Key Direction P3: Thriving and safe place to live	Key Direction P3: Thriving and safe place to live Key Direction P2: Infrastructure and facilities	Key Direction E1: Ecosystem function Key Direction E3: Environmental resilience Key Direction P3: Thriving and safe place to live	Key Direction P2: Infrastructure and facilities Key Direction P3: Thriving and safe place to live Key Direction C3: Community partnerships
PORT STEPHENS LOCAL STRATEGIC PLANNING STATEMENT			
ECONOMY	HOUSING	ENVIRONMENT	TRANSPORT
			
PRIORITY 1 Support the growth of strategic centres and major employment areas PRIORITY 2 Make business growth easier PRIORITY 3 Support tourism development and attract events	PRIORITY 4 Ensure suitable land supply PRIORITY 5 Increase diversity of housing choice PRIORITY 6 Plan infrastructure to support communities	PRIORITY 7 Conserve biodiversity values and corridors PRIORITY 8 Improve resilience to hazards and climate change PRIORITY 9 Protect and preserve productive agricultural land PRIORITY 10 Create people friendly spaces in our local centres where people can come together	PRIORITY 11 Integrate land use and transport planning PRIORITY 12 Enhance inter-regional connections

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ECONOMY

Port Stephens is a significant contributor to the Hunter region, Australia's largest regional economy. It has been recognised by all tiers of government as a strategic location for economic growth, with a regionally significant tourist and visitor economy, a long established manufacturing sector, and Australia's fastest growing aviation and defence hub.

Proximity to the M1 Motorway, Newcastle Airport and the Port of Newcastle make Port Stephens a convenient choice for business and creates opportunities to grow. Stunning natural assets attract tourists and visitors and make Port Stephens a desirable location for workers in the region seeking an enviable work life balance.

Port Stephens has recently attracted significant investment from both the public and private sectors and is earmarked to be a primary driver in the growth of regional NSW over the next 20 years.

Planning Priority 1 | Support the growth of strategic centres and major employment areas

The Port Stephens economy has a diverse and growing industry and employment base. Major employment areas are located at Williamtown, Tomago, Heatherbrae and the Tomaree Peninsula. Strategic centres at Raymond Terrace and Nelson Bay, as well as an emerging strategic centre at Medowie, complement the employment areas whilst supporting their own employment hubs. Williamtown and Tomago are identified as 'Catalyst Areas' in the Greater Newcastle Metropolitan area, and are likely to be the focus for employment and public and private infrastructure investment over the next 20 years.

Williamtown is the home of Newcastle Airport and the Royal Australian Air Force (RAAF) base, both significant economic drivers for the region. The arrival of the Joint Strike Fighter is anticipated to create some 3,000 direct and indirect jobs for civilian and defence workers and, with the expansion of the aerospace precinct around the airport, Williamtown could support up to 5,500 jobs by 2040.

Tomago hosts internationally recognised and highly specialised manufacturing businesses and the GNMP identifies that a minimum 700 additional jobs are expected in the precinct by 2036.

The Tomaree Peninsula is the primary focus of a thriving tourism industry and a cornerstone of the Hunter tourist and visitor economy. Tourism currently provides 1,169 jobs in the main visitor destinations of Port Stephens and is a vital sector in terms of local employment and supporting the local and regional economies.

Council will

- Monitor the supply of employment land and work to ensure sufficient land is available should a shortfall in supply be identified.
- Proactively develop, implement and monitor the local strategic planning hierarchy incorporating land use planning, infrastructure plans as required to guide future growth

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- Support the growth of strategic and local centres with our community through established strategic area Implementation Panels
- Advocate for the declaration of Williamstown as a 'Special Activation Precinct' by the State Government.
- Encourage growth through development and implementation of the Local Housing Strategy
- Assess rezoning requests for consistency with the economic directions set in local strategies.

Actions	Delivery
1.1 Prepare an economic prospectus for Port Stephens to attract business and investment. <i>Delivers Action 14 of Council's adopted Raymond Terrace and Heatherbrae Strategy</i>	2021
1.2 Prepare land use studies and strategies to support the growing economy and facilitate jobs, including commercial and employment land studies to update the <i>Port Stephens Commercial and Industrial Land Study 2010</i> .	2021
1.3 Complete strategic planning framework for strategic and local centres including infrastructure plans and funding strategies.	2024



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Planning Priority 2 | Make business growth easier

The local economy includes over 4,500 actively trading businesses, with most growth currently occurring in the manufacturing, tourism and defence sectors. New industries are also emerging to support a growing regional economy, taking advantage of easy access to regional, national and international markets via Newcastle Airport. The small business sector will continue to be a major jobs generator, particularly in creative, knowledge and service based, and tourism industries.

Business growth in local centres can contribute to more vibrant public spaces and local populations concentrated in and around our centres will support local economies.

By creating an environment where business can thrive, Council can facilitate the growth of innovative and successful enterprise and ensure existing industries can continue to provide jobs and opportunities in our LGA.

Council will

- Evaluate business and tourism related opportunities for grant funding.
- Support the establishment of a new town centre at Fern Bay.
- Monitor and report on the implementation of town centre strategies in partnership with residents and businesses through established Implementation Panels.
- Assess planning proposals consistent with local strategies, including planning strategies for Fern Bay, Nelson Bay town centre, Medowie and Raymond Terrace.
- Provide advice to Local Aboriginal Land Councils (LALC) about their landholdings to assist in identifying options for economic opportunities.

Actions	Delivery
2.1 Expand bulky goods at Heatherbrae, further strengthening its role as a key destination for this type of commercial development. <i>Delivers Action 2 of Council's Raymond Terrace and Heatherbrae Strategy</i>	2020
2.2 Investigate Council owned land for commercial catalyst sites in centres, including sites that may be suitable for shared workspaces or start-up hubs.	2023

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Planning Priority 3 | Support tourism development and attract events

The elements that make Port Stephens a great place to live and work also attract over a million visitors a year. It is one of Australia's premier tourist and visitor destinations, generating in excess of \$335 million for the local economy per annum.

The visitor economy in Port Stephens is strongly linked to the appeal of our unique natural environment including the Worimi Conservation Lands, Tomaree National Park and the Port Stephens - Great Lakes Marine Park.

In addition to its natural beauty, Port Stephens is a popular destination for both domestic and international visitors because it is easily accessible. It has close proximity to the M1 Motorway and easy access to the global gateways of Newcastle Airport and the Newcastle Cruise Ship Terminal.

There has been significant recent investment in the development of events and festivals, growing emerging tourism markets, and infrastructure such as the Tomaree Coastal Walk, the Koala Sanctuary at Anna Bay, and the Birubi Information Centre.

There are tremendous opportunities to expand tourism, especially international tourism

Council will

- Advocate for a major hotel and conference facility to be established in the LGA
- Advocate for the State government to fund a coastal walk at Stockton beach to link to the Great North Walk

Actions	Delivery
3.1. Prepare and implement an events strategy.	2020
3.2 Facilitate programs for business to encourage accessible tourism across Port Stephens.	2021
3.3 Investigate opportunities to facilitate land uses that can support the tourist and visitor economy, including enabling farm gate sales along the Nelson Bay Road corridor and areas for boat and caravan storage in suitable locations.	2022

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HOUSING

As a major driver in Australia's largest regional economy, Port Stephens has attracted significant investment in residential development that will support infrastructure and future job growth over the next 20 years. Major public, private and civil projects will make Port Stephens a regionally significant hub for the defence, tourism, manufacturing, aviation and aerospace, marine and energy sectors. In addition, future growth in housing will continue to support the growth and development of our strategic and local centres. These jobs will attract workers and families looking for a work life balance in one of the Hunter's most beautiful and varied landscapes.

Port Stephens is a popular destination for retirees and other people looking to enjoy a relaxed lifestyle in beautiful surroundings. Future housing demand could also include 'regional returners', people who left the area as young adults and are choosing to move back to be close to family or because they value the lifestyle in Port Stephens. Equally, a sustainable supply of additional residential land provides greater opportunity for retaining our younger population, who can maintain links to existing centres and communities whilst accessing local and regional employment, education and entertainment.

Directions in State planning strategies require planning for a diverse range of future housing choices, from homes in coastal communities and spacious rural retreats to townhouses in local centres and granny flats in our suburbs. Providing housing diversity can have a positive impact on housing affordability and providing homes with access to jobs and centres will be key to meeting housing demand over the next 20 years.

Planning for new development in and around existing local centres and suburbs will contribute towards the targets for redevelopment of urban land set in the State Government's GNMP.

Planning Priority 4 | Ensure suitable land supply

In 2018, Port Stephens was the third fastest growing LGA in the Hunter, and given the projected job growth in our LGA over the next 20 years that trend is likely to continue.

Proximity to growing job markets in our LGA and Greater Newcastle will make living locally an attractive option. Most existing housing opportunities in Port Stephens are located within 15 minutes of a Greater Newcastle employment centre. Existing and future residential areas, such as Fern Bay, Kings Hill, and Medowie can provide housing options less than 30 minutes from major employment areas in Williamstown, Maitland, Broadmeadow, and Newcastle City centre.

Port Stephens has a housing market that is supply driven and without an adequate supply of land in the right locations, housing affordability is likely to be negatively impacted.

Council will

- Review or prepare local strategies, including a local housing strategy, to respond to changing circumstances.

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- Assess rezoning requests for consistency with the directions for housing in local strategies.

Actions	Delivery
4.1 Prepare and implement a local housing strategy to ensure suitable land supply and other planning priorities for housing identified in the LSPS.	2020

Planning Priority 5 | Increase diversity of housing choice

Housing diversity means a range of housing types, sizes, tenures and price points are available to meet demand in the right locations.

Housing choices in our LGA can include new estates, rural lifestyle lots, terraces, duplexes, small lot housing, shop top housing, granny flats, and homes in retirement villages and lifestyle communities.

Housing diversity in some locations can promote the more efficient use of existing infrastructure or promote the more efficient use of land in order to protect the conservation and economic value of coastal, rural and natural environments. Some housing types offer energy efficiencies and other sustainability benefits. Some models of home ownership can offer seniors independent living in close knit communities.

Planning for diverse housing can mean prioritising what people value and planning for a range of housing types and sizes to suit different lifestyles.

Council will

- Implement housing diversity actions contained in adopted strategies

Delivers Action 25 of the Raymond Terrace and Heatherbrae Strategy.

Actions	Delivery
5.1 Council will amend the LEP to support higher densities in Nelson Bay and Raymond Terrace town centres.	2020 (NB)
<i>Delivers Action 7 in the Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program (Nelson Bay Delivery Program).</i> <i>Delivers Action 15 in Raymond Terrace and Heatherbrae Strategy.</i>	2021 (RT)
5.2 Investigate and promote the development of suitable catalyst sites in the Raymond Terrace and Heatherbrae Strategy for diverse housing opportunities.	2023
<i>Delivers Action 25 of the Raymond Terrace and Heatherbrae Strategy.</i>	

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Planning Priority 6 | Plan infrastructure to support communities

As Port Stephens grows, communities will require housing, infrastructure and services that can meet changing needs. Liveable communities have employment, housing and transport options that meet their needs and enjoy access to quality public spaces, community or sporting facilities, and services such as medical care or child care. Increasingly, digital infrastructure and smart technology can positively impact the sustainability, resilience and safety of our community.

**Make Port
Stephens a
digital hub**

Port Stephens is significant to the Hunter Region's drinking water supply, including Grahamstown Dam Drinking Water Catchment, the Williams River Catchment, and the Tomago Sandbeds. Planning for new development in the vicinity of drinking water catchments to maintain water quality will protect these regional infrastructure assets.

Council will

- Align infrastructure in local strategies with the Local Infrastructure Contributions Plans to ensure new development and infrastructure can be delivered in line with growth.
- Assess rezoning requests for consistency with local strategies that identify infrastructure needs.

Actions	Delivery
6.1 Council will develop a Smart City Blueprint to plan for digital infrastructure and data management.	2020
6.2 Council will collaborate with Hunter Water Corporation in the preparation of a drainage strategy for Medowie. <i>Aligns with the Medowie Planning Strategy</i>	2023
6.3 Council will review the Port Stephens Infrastructure Specifications to deliver best-practice guidelines for planning, designing and developing sustainable built environments.	2023



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ENVIRONMENT



Port Stephens is home to a variety of natural landscapes including coastal plains, sand dunes, rivers, valleys, forests, beaches, wetlands and wooded ridgelines. Port Stephens supports an abundant natural environment with remarkable flora, fauna and marine species including koalas, oysters, dolphins and whales. Our natural and cultural heritage shapes the local character and identity of our centres, towns and villages and underpins local economies, including aquaculture and the visitor and tourist economy.

Managing impacts on the natural environment and planning for green connections promotes and protects biodiversity, natural habitats and cultural heritage. Our natural assets can help mitigate the impacts of urban development, increase resilience to natural hazards such as flooding, and contribute towards economic development and tourism.

Access to green space can support the promotion of biodiversity and provides residents with lifestyles that promote wellbeing and enhances quality of life. Our parks, gardens and recreational facilities provide opportunities to soften the interface between urban and other development and the natural landscape provides an enhanced visitor experience. Green spaces can serve as important habitat corridors as well as creating places that enhance social connections and contribute to defining communities.

Planning Priority 7 | Conserve biodiversity values and corridors

Port Stephens is home to unique areas of high environmental significance including the Hunter estuary and wetlands, the Stockton sand dunes, the Watagan to Stockton Green Corridor, the Hunter and Williams rivers, and National Parks. The blue and green grid of natural landscapes, open spaces and waterways contributes to conserving high biodiversity values and includes Stockton beach, Hunter Botanic Gardens, the Hunter River, and areas in Port Stephens that support the koala population.

Healthy natural environments support clean air, water and healthy soils. Biodiversity in Port Stephens supports ecological, cultural, recreational, economic and scenic values. Managing environmental impacts and promoting biodiversity benefits community wellbeing and seeks to ensure the health, diversity and productivity of our environment is maintained or enhanced for the benefit of future generations.

Actions	Delivery
7.1 Council will review and update the tree and vegetation management framework.	2021
7.2 Council will prepare and implement a Biodiversity Strategy to avoid, minimise and offset impacts on biodiversity.	2022
7.3 Council will review and update the koala management framework. <i>Aligns with the Medowie Planning Strategy</i>	2023

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Planning Priority 8 | Improve resilience to hazards and climate change

Ecologically sustainable development should be recognised as a key commitment

Port Stephens experiences a wide range of natural hazards such as flooding, coastal inundation, erosion and bushfires. Natural hazards and risk management influence how we plan for future growth and new development in Port Stephens.

Strategies to build community and environmental resilience to natural hazards and climate change support positive economic, environmental and social outcomes. Reducing risk exposure and increasing resilience to natural hazards ensures that people, property, infrastructure, the economy and the environment can withstand future hazard events.

Where and how we build communities can impact resilience to hazards and climate change. Planning for land use can include taking into consideration evacuation planning principles to minimise risk to life or reduce the burdens on emergency services. Choice of materials, design and efficient use of water and energy can make the built environment more resilient and promote ecologically sustainable development.

Council will

- Implement the recommendations of Council's Flood Committee.
- Assess rezoning requests for consistency with environmental, sustainability and risk management directions in local, regional and state planning framework.

Actions	Delivery
8.1 Council will review the Climate Change Adaptation Action Plan.	2021
8.2 Council will assist the NSW Rural Fire Service in reviewing the bushfire mapping for Port Stephens	2022
8.3 Council will prepare and implement a Coastal Management Program to mitigate natural hazards and incorporate resilience measures that promote ecologically sustainable development.	2022
8.4 Council will review existing policies for water sensitive design and consider options to improve outcomes for the environment and home owners.	2023
8.5 Council will develop a Sustainability Strategy which will include actions for energy savings, reduction of waste and encourage low carbon emissions.	2023

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Planning Priority 9 | Protect and preserve productive agricultural land

Agriculture is an important sector of the Port Stephens economy, contributing \$107 million of exports annually and providing around 400 jobs. Poultry and oyster farming are the dominant agricultural industries in the LGA and agriculture is significant to the local character and cultural heritage of villages in the rural west of Port Stephens and some coastal areas. Some types of agriculture support the visitor and tourist economy and contribute to unique visitor experiences.

Protect the distinctive rural heritage of the West Ward area

”

Productive agricultural land in Port Stephens can support healthy neighbourhoods and locally produced food is generally more sustainable, expending less energy, emissions and 'food miles'. There may be opportunities for existing agricultural businesses to capitalise on complementary uses such as artisan food premises, boutique breweries and wedding reception venues which can provide supplementary income for farm based businesses.

Managing the impacts of new development in some areas requires assessing potential land use conflicts to ensure existing and potential agricultural uses are protected. This can include managing new housing and land fragmentation in rural areas and managing water quality and other natural resources that sustain local agricultural industries such as oyster aquaculture.

Actions	Delivery
9.1 Prepare a local housing strategy that includes assessment criteria for new rural residential development to protect existing and potential productive agricultural land.	2020
9.2 Review local plans to encourage niche commercial, tourist and recreation activities that complement and promote agricultural industries.	2023



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Planning Priority 10 | Create people friendly spaces in our local centres where people can come together

Planning for healthy communities promotes wellbeing and encourages active living. Healthy neighbourhoods include public spaces and green spaces where people can come together and feel connected to the natural environment. Liveable communities with access to shared space and adequate recreational areas foster strong social connections. Our public places in and around local centres can provide spaces where people can meet, play or explore. Place making can empower communities to make spaces more inviting and create opportunities for residents and visitors to participate in events that bring people together.

Council will

- Improve access to open space, recreation areas and waterways by implementing local strategies such as the Recreation Strategy, Pathways Plan and the Pedestrian Access and Mobility Plans.
- Investigate opportunities in existing centres to provide better public spaces and plan for public spaces that:
 - Improve amenity and grow connections
 - Include public art and are suitable for community events
 - Support the ageing population
 - Enhance local character, including natural and cultural heritage
 - Facilitate the reuse of heritage places
 - Meet objectives in the Better Placed Framework and Regional Urban Design Guide (published by the NSW Government Architect's Office) and the Movement and Place Framework (published by Transport for NSW)
- Support placemaking initiatives in town centres.
- Consult with LALCs in the review of local planning strategies to identify and protect Aboriginal cultural heritage values
- Undertake community consultation to ensure town centre revitalisation projects respond to community values and priorities
- Assess rezoning requests for consistency with the directions in local strategies for public spaces.

Actions	Delivery
10.1 Prepare a Community Wellbeing Strategy to promote liveable communities.	2022
10.2 Support the activation of public spaces, including events, public art, small business opportunities, markets and other temporary uses.	2022
10.3 Prepare a Public Domain Plan for Raymond Terrace.	2020

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TRANSPORT

Port Stephens is connected by local, regional and global transport networks that provide easy access to jobs, interstate and overseas travel, education, and health services. Access to the global gateways that are Newcastle Airport and the Port of Newcastle, as well as the M1 Motorway, and regional rail corridors make Port Stephens a well-connected place to live and a hub for business and industry.

Local transport infrastructure supports thriving communities and businesses. Local roads, pathways, bus shelters, car parks and other transport facilities, such as the Birubi Point Aboriginal Place Tourism Interchange, can connect Port Stephens to Greater Newcastle, connect our local centres and support local economies, including the tourism and visitor economy.

New development in Port Stephens will contribute funding towards local infrastructure that provides or upgrades facilities, including sporting, community and cultural facilities, road upgrades and cycle paths. Infrastructure that connects residents to public transport or promotes walking and cycling can facilitate healthy communities.

Investment in town centre rejuvenation will include transport infrastructure upgrades, such as parking strategies and roadworks, to revitalise centres and activate main streets. Pedestrian connections and connections to public transport will ensure our centres are accessible. Local business will benefit from attractive and accessible centres that are destinations for residents and visitors.



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Planning Priority 11 | Integrate land use and transport planning

Planning for land use to integrate with transport infrastructure can have significant social, environmental and economic benefits. Transport planning can support planned land uses, create demand for different land uses, or change the character of a place and the lifestyles of the people that live and work in our LGA.

Transport infrastructure can facilitate the land uses that will grow the local and regional economies in Port Stephens. Improved infrastructure can make tourist destinations more accessible, and infrastructure such as trails and cycle ways can themselves attract visitors for tourism or recreational opportunities. Transport options can be provided around employment and retail centres that supports employees living and working locally and encourages people to shop locally.

Planning for communities that can access public transport, walking and cycling paths promotes more active living and can help reduce car dependency, congestion and commuting time. Transport planning can make our public spaces more attractive and functional. Town centres that are accessible support local businesses by connecting customers, employees and related industries. Public spaces that balance movement and place are people friendly and inviting for residents and visitors.

Council will

- Seek grant funding for infrastructure that supports healthy communities such as footpaths, shared paths and end of trip facilities for cyclists in centres.
- Support investigations to establish a ferry terminal at North Stockton/Fern Bay.
Delivers Action 19 in the draft Fern Bay and North Stockton Strategy.
- Assess rezoning requests for consistency with the directions for transport infrastructure in local strategies.

Actions	Delivery
11.1 Undertake town centre upgrades to support accessibility and improved connections, including works to improve parking and pedestrian connectivity in town centres. <i>Aligns with local strategies for Raymond Terrace, Medowie and Nelson Bay, the Nelson Bay Public Domain Plan and the Nelson Bay Citizens Parking Panel Report.</i>	2020 - 2040
11.2 Identify and prioritise delivery of pathways that form part of, or connect to, regional trails.	2021

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Planning Priority 12 | Enhance inter-regional connections

Port Stephens has established connections to the Hunter, Sydney and other capital cities, and international destinations. Our connections support business and industry, our visitor and tourist economy, and residents.

As a global gateway, Newcastle Airport is central to unlocking unrealised potential for the tourism industry and provides an opportunity for the Hunter region to export goods, services and skilled labour across Australia and the world.

The Airport provides national and international opportunities to grow local businesses and supports a more agile workforce, including fly in and fly out workers and people choosing to live in Port Stephens and work remotely. People living in Port Stephens also have access jobs and services Greater Newcastle with major residential areas in Port Stephens located within 15 minutes of a Greater Newcastle employment centre.

Proximity to the Port of Newcastle, the M1 motorway, and regional rail corridors supports local business and industry to access markets in Sydney, the Hunter Valley, northern and central NSW, and interstate.

There are opportunities to improve public transport and active transport connections from Port Stephens to Greater Newcastle centres and beyond. Planning for future rail connections, in particular to support inter-regional freight or passenger connections to Newcastle Airport, will further enhance existing transport links.

Council will

- Advocate for improved transport connections, including more active and public transport, from Raymond Terrace, Medowie and Fern Bay to major employment areas at Tomago and Williamtown and other centres in Greater Newcastle.
- Support State agencies to identify a potential future freight corridor to Newcastle Airport.
- Advocate for rail connections between Newcastle Airport and Newcastle City and to connect Port Stephens to the Hunter region, the NSW North Coast and Brisbane.



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LEP Amendments, Implementation, Monitoring and Reporting

The Port Stephens LSPS has been prepared in accordance with section 3.9 of the EP&A Act. It gives effect to the HRP and GNMP, implementing the directions and priorities at a local level. It puts forward the vision and long-term land use strategy for Port Stephens for the next 20 years. To realise the vision, amendments to the LEP, DCP and CPs may be required to provide the framework for delivery.

Rezoning Requests

In accordance with section 3.33(2) of the EP&A Act the assessment of rezoning requests will include whether the proposed instrument will give effect to the LSPS and will comply with relevant directions under section 9.1 of the EP&A Act.

Implementation, monitoring and reporting

Council will monitor, review and report on its LSPS to ensure that the planning priorities are being achieved.

Implementation of the LSPS will be monitored and reported through the Integrated Planning and Reporting Framework (IP&R) under the *Local Government Act 1993*. The LSPS will support Council's CSP, and will be reviewed concurrently every four years, commencing in 2024. The review will take into account changes to the HRP, the GNMP, Council's updated CSP and other relevant local planning strategies.

Reference Groups and Partnerships

Actions contained within the LSPS are the primary responsibility of Port Stephens Council. However, the successful implementation of the actions will require the input, advice and assistance from a range of additional groups and organisations.

Council will continue to work hard to maintain effective partnerships with the following organisations and State government agencies to support the realisation of the plan:

Aboriginal Strategic Committee	Newcastle Airport
Community Groups	NSW Department of Planning, Industry and Environment
Heritage Committee	Roads and Maritime Services
Hunter and Central Coast Development Corporation	Strategic Arts Committee
Hunter Joint Organisation	Strategic Centre Implementation Panels
Hunter Water Corporation	Urban Development Program
Flood Committee	

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STATEMENT.



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A row of four small, square social media icons: Facebook, Twitter, YouTube, and Instagram.

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STRATEGY - LIVE PORT STEPHENS.**

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Acknowledgement of Country

Port Stephens Council acknowledges the Worimi People, the traditional custodians of the land on which this document was prepared. We pay respect to knowledge holders and community members of the land, and acknowledge and pay respect to Elders, past, present and future.

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Introduction

Executive Summary

The Port Stephens Local Government Area (LGA) is growing and *Live Port Stephens* provides the road map to accommodate people who want to live in our LGA over the next 20 years.

As a major driver in Australia's largest regional economy, Port Stephens has recently attracted substantial investment to support infrastructure and future job growth. Major public, private and civil projects will make Port Stephens a regionally significant hub for the defence, tourism, manufacturing, aviation and aerospace, marine, and energy sectors.

Proximity to Greater Newcastle and the Hunter's rich resources will attract investment, businesses and a skilled workforce to Port Stephens looking to capitalise on established transport connections and the global gateway that is Newcastle Airport.

These jobs will attract workers and families over the next 20 years looking for a work life balance in one of the Hunter's most beautiful and varied landscapes.

Port Stephens can offer new homes that are well connected to schools, transport, beaches and waterways, sporting and other facilities. From coastal communities, urban release areas, hinterland villages, waterfront homes and town apartments, to spacious homes in the suburbs and rural retreats, housing in Port Stephens can provide lifestyles to suit every household.

The Greater Newcastle Metropolitan Plan requires councils to prepare local housing strategies to deliver housing close to jobs and services to create sustainable lifestyles in liveable communities. *Live Port Stephens* creates capacity for a diverse range of new homes close to established and planned employment hubs in Port Stephens and Greater Newcastle.

Live Port Stephens will:

- Ensure suitable land supply;
- Improve housing affordability;
- Increase diversity of housing choice; and
- Facilitate liveable communities.

Live Port Stephens is the overarching strategy to guide land use planning decisions for new housing in Port Stephens. It comprises four outcomes, 12 priorities and 21 actions. The outcomes will meet the directions set for Hunter councils in State planning strategies and the priorities identify the broad issues or policy areas that we need to focus on. The actions listed at the end of each chapter identify the specific steps to achieve each outcome.

I originally came for work and then stayed. It became my home. My friends and family are now here. ”

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Port Stephens Snapshot

Port Stephens Local Government Area (LGA) spans 860 square kilometres and forms part of the Hunter region, Australia's largest regional economy. It is bounded by Dungog Shire and Mid Coast Council areas to the north, Maitland City to the west, the City of Newcastle to the south. The Pacific Ocean lies to the east.

Port Stephens is home to approximately 72,700 people living in coastal communities, hinterland villages, rural retreats, or in the suburbs. Each local centre in the LGA offers housing and lifestyles that create diverse communities.

Identified as part of the Greater Newcastle Metropolitan Area, Raymond Terrace, Tomago and Williamtown are regionally significant strategic and employment centres in Port Stephens. Tomago and Williamtown have been identified as 'Catalyst Areas' in the Greater Newcastle Metropolitan Plan and are earmarked for significant growth and investment over the next 20 years. Due to its proximity to Williamtown and Tomago, as well the potential for residential growth, Medowie is likely to emerge as a strategic centre playing an important role both within Port Stephens and Greater Newcastle.

Newcastle Airport at Williamtown provides a global gateway for the Hunter region and is home to the Royal Australian Air Force (RAAF) base and associated aerospace and aviation support services. The arrival of the Joint Strike Fighter is anticipated to create some 3,000 direct and indirect jobs for civilian and defence workers and the expansion of the aerospace precinct around the airport is likely to have a significant impact on the growth of Port Stephens and Greater Newcastle.

Tomago is an established major employment area comprising various industrial and manufacturing activities, including, mining support, heavy industry and aluminium production. Investment in a major gas fired power station at Tomago will provide energy infrastructure to grow the region.

Nelson Bay and the Tomaree Peninsula are similarly major contributors to the regional economy, hosting iconic tourist destinations that attract State, national and international visitors.

Access to Newcastle Airport, the Port of Newcastle, the M1 Motorway, and regional rail corridors make Port Stephens a major hub for businesses seeking to capitalise on freight and logistics infrastructure.

Town centres in Raymond Terrace, Medowie, and Nelson Bay provide for residents and visitors to live, shop, work, gather and be entertained. Coastal towns and villages provide unique tourist and visitor experiences and support strong communities that enjoy living in a unique natural setting. The rural west of Port Stephens provides a scenic backdrop for villages and rural residential retreats that reflect a rich history of land use in our LGA.

Port Stephens encompasses diverse natural and cultural heritage, including Aboriginal cultural heritage. Areas of environmental significance shape our landscape, including National Parks, the Port Stephens Great Lakes Marine Park, the Watagan to Stockton Green Corridor, estuaries and wetlands, Grahamstown Dam, the Stockton sand dunes, and the Hunter and Williams Rivers.

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Opportunities and Constraints

Significant commitments to invest in Port Stephens to grow the regional and local economy and to provide the infrastructure to support growth will drive demand for new housing over the next 20 years.

Investment in Newcastle Airport, new infrastructure to support urban development, town centre rejuvenation, smart city innovations, and education facilities will attract people looking to live near jobs and in vibrant communities.

Port Stephens is renowned for its scenic and natural beauty, with environmentally and culturally significant areas. Port Stephens attracts residents seeking homes with strong connections to surrounding areas as well as the natural environment, including our beaches, rivers and waterfronts, forests, sand dunes, or the rural hinterland.

Our diverse landscape can present potential constraints for new housing in some areas such as flooding, biodiversity values, drinking water catchments, and bushfire. Other constraints from existing land uses in Port Stephens will shape how we grow and where new housing is located, including aircraft noise and productive agricultural land.

Existing urban areas and centres in Port Stephens present key opportunities to accommodate future housing. New housing located within walking distance to main streets, shops, schools and parks will sustain liveable communities.

Investment in rejuvenating town centres, such as Raymond Terrace and Nelson Bay, and an emerging strategic centre at Medowie will create opportunities for people to live in vibrant centres, and an increased resident population can ensure local economies are supported.

Existing urban areas and neighbourhoods in Port Stephens can provide a diverse and affordable mix of housing options close to employment hubs in Port Stephens and other parts of Greater Newcastle such as Maitland and Newcastle City.

Raymond Terrace, Anna Bay, and the Tilligerry Peninsula can provide opportunities for growing local centres through small scale renewal, for example townhouse redevelopments or shop top housing in centres.

New development and new housing in Port Stephens can fund local infrastructure investment such as facilities for residents, including sporting facilities, community and cultural facilities, road upgrades and cycle paths.

Existing and planned infrastructure supports urban release areas at Kings Hill, Raymond Terrace, Medowie, Karuah and Anna Bay. Increased growth provides opportunities for future investment and upgrades in Port Stephens such as improved public transport and connections to other strategic centres in Greater Newcastle.

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Housing Vision

In 2040, Port Stephens will offer homes in diverse neighbourhoods and centres that enable people to live close to work, raise their families in healthy neighbourhoods, escape the rat race surrounded by picturesque landscapes, or enjoy retirement in active communities. New and existing residents are spoilt for choice when it comes to choosing their dream home.

Local centres are the hub of community life and provide spaces for people to gather, celebrate and explore. Our natural and cultural heritage shapes our places and is reflected in the local character of our neighbourhoods and centres.

Port Stephens residents are more connected than ever with local, regional and global transport networks providing easy access to jobs, interstate and overseas travel, education and health services. Residents and visitors use walking and cycling links to access local shops, schools, parks and sporting facilities.

New areas are planned to be liveable neighbourhoods and designed to support sustainable homes and lifestyles. Communities grow in places that create a sense of belonging and foster wellbeing.

Raymond Terrace is an attractive, affordable and vibrant centre with homes for people seeking shorter trips to work in Heatherbrae, Williamstown and Tomago, and easy access to other centres in Greater Newcastle. A revitalised town centre provides homes close to shopping, dining, and entertainment. Residents are connected via cycle ways and paths to surrounding suburbs, schools, parks and sports fields. Raymond Terrace is supported by new housing at Kings Hill offering a range of housing choices in the area.

Our coastal waterways and the scenic natural environment are reflected in the local character of the coastal towns and villages on the Tomaree and Tilligerry peninsulas. New development is concentrated within existing urban areas between the bush and the waters of Port Stephens and strong local communities enjoy convenient, active lifestyles.

Medowie attracts families looking for space to grow and maintain convenient connections to Greater Newcastle. As a place of tall trees, the streets and backyards are part of a green urban landscape that supports plants, animals and people.

Karuah has undergone substantial growth that has reinvigorated the town centre and attracted 'escapers' from Greater Newcastle and beyond.

Fern Bay enjoys an exciting new town centre and provides diverse housing choices in one of the region's most convenient locations.

Port Stephens will attract new residents and provide housing that meets their needs. New urban development opportunities, including a mix of infill and greenfield opportunities, will be investigated as Greater Newcastle grows.

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Outcome 1 Ensure suitable land supply



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Priorities

- 1.1 Ensure adequate supply of new housing
- 1.2 Remove barriers to unlock housing supply
- 1.3 Increase the proportion of infill housing

Home in Port Stephens can mean living in a seaside village, a suburban neighbourhood, a coastal retreat or a peaceful rural escape. The variety of landscape settings means residents are spoilt for choice when seeking a home to suit their lifestyle. Port Stephens features pristine natural environments, beautiful waterways, and easy access to jobs, services and facilities, making it a destination of choice for many.

In 2018, Port Stephens was the third fastest growing local government area in the Hunter (behind neighbouring Maitland and Cessnock). The population of Port Stephens grew from approximately 64,300 in 2008 to 72,700 in 2018, an increase of 13%.

Major economic stimulus and committed investment in Port Stephens is likely to continue this trend, with planned economic growth around Newcastle Airport at Williamstown and Tomago industrial precinct and significant investment committed to support the visitor economy on the Tomaree Peninsula. The introduction of the Joint Strike Fighter aircraft to the RAAF base at Williamstown will alone create an additional 3,000 jobs by 2036.

Proximity to these job markets makes living locally an attractive option, with most housing opportunities in Port Stephens located within 15 minutes of a Greater Newcastle employment centre. Existing and future residential areas, such as Karuah, Fern Bay, Kings Hill, and Medowie can provide affordable options for people looking for a relaxed lifestyle less than 30 minutes from major employment areas in Williamstown, Maitland, Broadmeadow, and Newcastle City centre.

As the way we work changes, Port Stephens is also an attractive choice for people choosing to work remotely and live in a beautiful location or looking for easy access to both Australian and international destinations, with Newcastle Airport putting local residents within an hour of Melbourne or Brisbane, whilst seeking opportunities to expand international reach of the region.

The *Port Stephens Demographic and Housing Overview Report* identifies population growth slowing over time due to limited land supply in Port Stephens. This is consistent with State government population projections for our LGA. The Report demonstrates that when land supply is available, the population of Port Stephens grows, and when land supply is constrained, housing affordability decreases and people settle elsewhere in Greater Newcastle.

Table 1 shows the projected supply of new dwellings in Port Stephens to 2040, based on the current existing land supply (i.e. sites already zoned for residential development or conditionally approved by DPIE for rezoning as of December 2019). A high proportion of the projected supply will be provided from large urban release areas, such as Kings Hill, and this is reflected in the proportion of greenfield dwellings within Raymond Terrace (93%) and Port Stephens (82%).

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Table 1 Current supply of new dwellings by area to 2040

AREA	GREENFIELD PROPORTION	INFILL PROPORTION	NEW DWELLINGS
Port Stephens	82%	18%	7,500
Fern Bay	100%	0%	
Karuah	92%	8%	
Medowie	85%	15%	
Raymond Terrace (Incl. Kings Hill)	93%	7%	
Rural East	100%	0%	
Rural West	13%	88%	
Tilligerry	10%	90%	
Tomaree	58%	42%	

Source: Remplan, 2019, Demographic and Housing Overview Report | **Note:** This table refers to 'planning areas' as identified in the Port Stephens Demographic and Housing Overview Report.

The data shows that without intervention to identify additional housing opportunities, the current available housing supply is unlikely to support the demand from expected employment growth in the LGA. Without adequate housing supply in Port Stephens, people moving to the area over the next 20 years may not be able to find homes near where they work or within their budget.

Currently only 56% of people working in Port Stephens live in the LGA and the State Government's Greater Newcastle Metropolitan Plan directs local councils to deliver housing close to jobs. To shift this statistic over the next 20 years, Port Stephens can provide homes for people moving to the area for these new jobs.

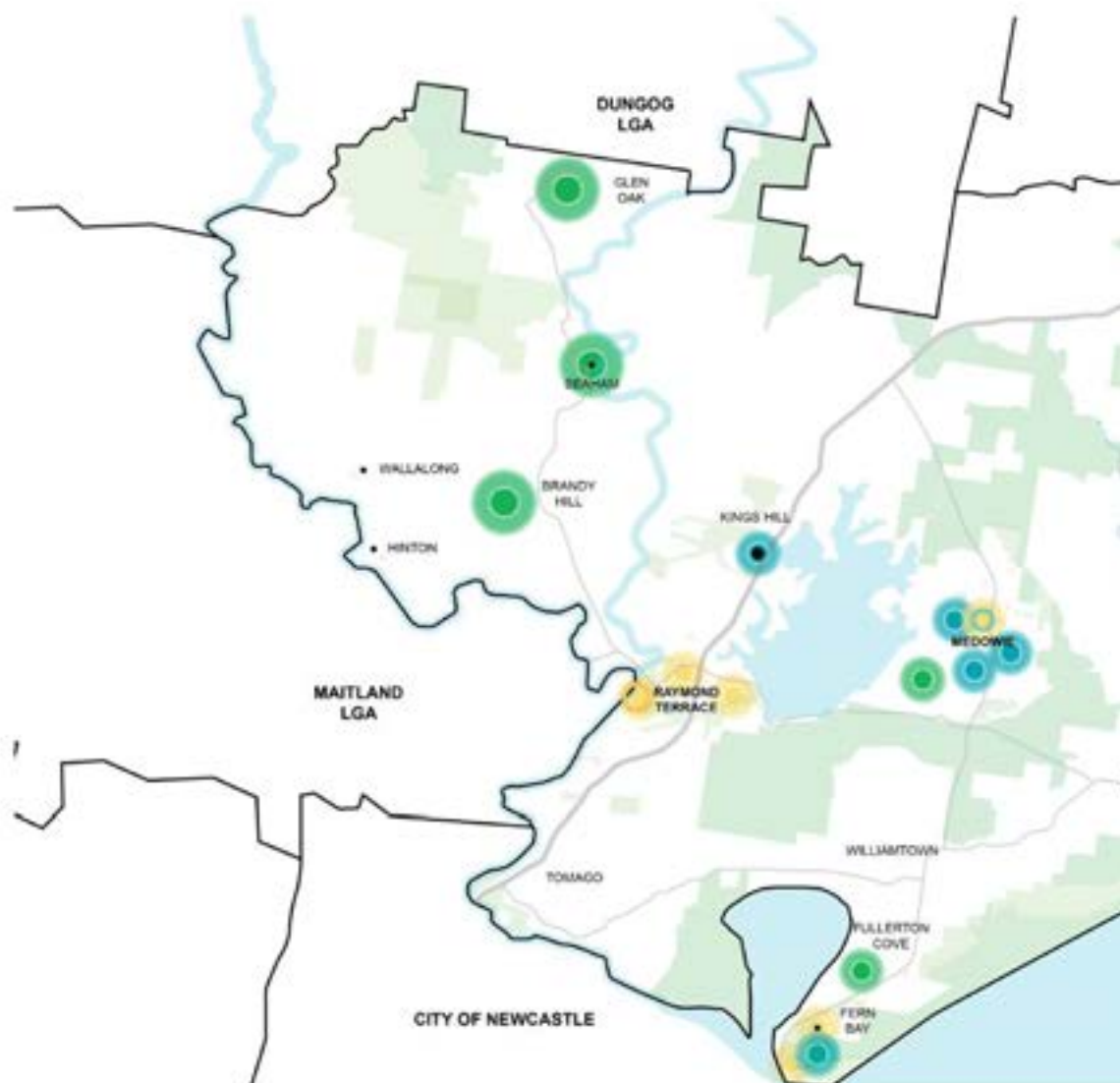
Port Stephens has long been a desired destination for retirees and older people moving from cities and other areas to enjoy a more relaxed lifestyle in beautiful surroundings. Demand for homes suited to older persons is likely to continue.

Other key trends that are likely to impact future demand for new housing includes 'regional returners' or people who left the area as young adults and are choosing to move back later in life as they grow families or value the lifestyle in Port Stephens. Facilitating an appropriate supply of housing provides opportunities to retain younger people with strong connections to our LGA, who value access to developable land that is close to family, centres and employment.

The *Port Stephens Demographic and Housing Overview Report* recommends finding new housing opportunities to increase dwellings and meet this expected demand in order to avoid negative impacts on housing affordability.¹

Live Port Stephens contains the actions to identify additional housing opportunities, create more diversity and housing choice, and to support housing affordability in our LGA.

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Priority 1.1 Ensure adequate supply of new housing

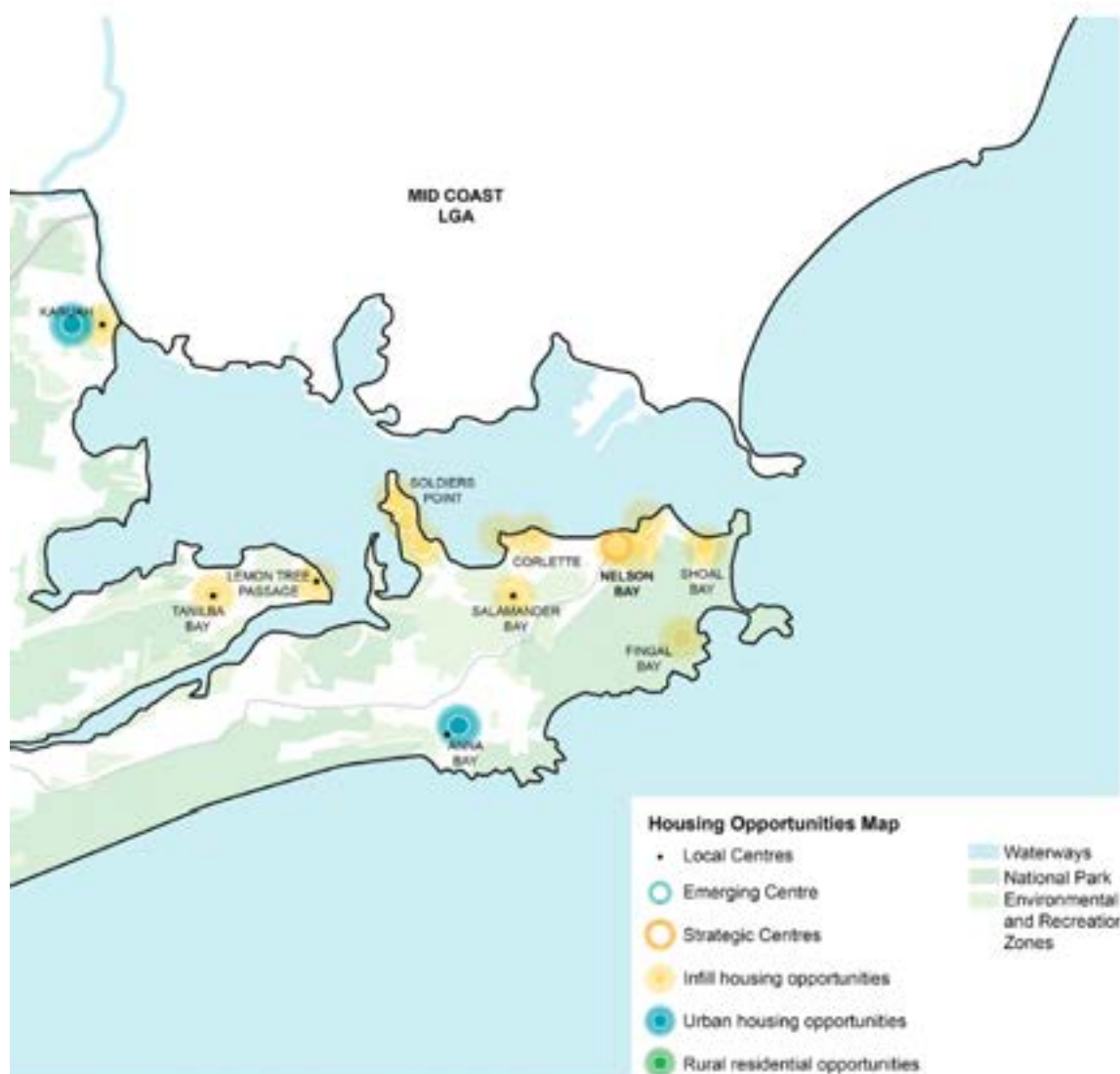
Significant commitments to invest in Port Stephens to grow the regional and local economies and provide the infrastructure to support that growth will drive demand for new housing over the next 20 years.

Port Stephens has always been an attractive place to live, renowned for its scenic and natural beauty and environmentally and culturally significant areas. Supporting economic and population growth, while preserving the environment and natural landscape requires a balanced approach when planning for future urban and rural housing areas.

Various other constraints, such as flooding, biodiversity corridors, bushfire, slope, and proximity to conflicting land uses will also impact new housing opportunities in Port Stephens.

Locations with few constraints that can capitalise on existing infrastructure should be prioritised. Future urban housing areas will preferably be located on land that is in proximity to an existing centre, adjoining an existing urban area, or where it can be demonstrated that sewer, water, electricity, transport, and drainage infrastructure can be delivered.

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Rural residential housing can also contribute to the overall housing supply and provide housing diversity in locations where:

- The land is unlikely to be required for more intensive urban purposes in the future due to physical constraints such as slope, environmental characteristics, or natural hazards;
- Less intensive urban development results in better management of the land; and
- The delivery of infrastructure required to service the development is physically and economically feasible.

The Housing Opportunities Map identifies opportunities for new housing that consist of existing identified potential supply (i.e. Residential areas already zoned or conditionally approved by DPIE for rezoning as of December 2019 and areas identified in Council's adopted strategies for potential new housing), including rural residential housing opportunities identified in the draft Rural Residential Strategy² exhibited in 2015.

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The Housing Opportunities Map also shows the existing urban areas around local centres that have been identified in the *Port Stephens Infill Housing Study* (Infill Housing Study) as potentially suitable for redevelopments.³

Outcome 3 aims to facilitate new housing within existing urban areas and summarises the findings of the *Infill Housing Study*.

Appendix 1 and Appendix 2 contain criteria that will guide the identification and assessment of future housing supply (urban and rural residential housing), including opportunities not identified on the Housing Opportunities Map. The criteria reflect a preference for land that is unconstrained and acknowledges that some land will require a higher level of strategic justification and supporting information to be considered for development. Land identified within existing strategies will still need to demonstrate consistency with the relevant criteria in Appendix 1 or 2.

For new rural residential development, the criteria is consistent with Council's adopted Rural Residential Policy, including buffers from existing agricultural industries and extractive industries.

Priority 1.2 Remove barriers to unlock housing supply

There are sites on the Housing Opportunities Map that have been identified in adopted local strategies, but have failed to progress to rezoning for new housing for any number of reasons. This includes fragmented ownership, environmental constraints requiring significant investigations, or challenges in funding and providing necessary infrastructure.

As part of boosting housing supply, sites already identified for housing can be re-examined to identify barriers to delivery and the opportunities for unlocking housing supply on these sites.

Fragmented land ownership (where a development precinct has multiple landowners) can complicate the process of making land use changes, particularly if significant resources are required to fund the studies and investigations to support a rezoning. Fragmented land ownership is common to a number of precincts identified in existing land use strategies for future housing and may have stalled some development sites from proceeding.

Environmental constraints also have the potential to stall delivery of housing especially when studies and investigations are expensive, time consuming, or difficult to resource and coordinate. Landowners might be reluctant to invest in a rezoning process where environmental constraints can impact potential yield and certainty.

Infrastructure requirements like the timely provision of roads, sewer and water infrastructure can also be a barrier for housing development. In our LGA, sewer and water infrastructure is the responsibility of Hunter Water and the annual Hunter Water Growth Plan provides detailed maps with the likely timeframes for servicing new development. Hunter Water also supports developer delivered infrastructure ahead of schedule through funding deeds. Council provides advice to Hunter Water in the preparation of the Hunter Water Growth Plan and consults Hunter Water on land use plans and applications including in relation to drainage and water quality within drinking water catchments.

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Case Study: Investigating environmental constraints at Anna Bay

The Anna Bay Strategy and Town Plan was adopted by Council in 2008. The Strategy identifies land with potential for housing development, and the need for detailed flood investigations to support any future development. For individual landowners, the studies proved cost prohibitive and rezoning investigations stalled until Council sought grant funding from the NSW Government to prepare a comprehensive area flood study as part of the NSW Floodplain Management Program in 2017. The Anna Bay Tilligerry Creek Flood Study will guide future development in the area and unlock future residential sites at Anna Bay.

Figure 2 Anna Bay and Tilligerry Flood Study area



Priority 1.3 Increase the proportion of infill housing

Infill housing is the redevelopment of existing urban areas for additional housing such as duplexes, terraces, townhouses or granny flats.

The current housing stock in Port Stephens is 78.8% single houses and Table 1 above shows that the existing available housing supply over the next 20 years is likely to continue this trend.

Infill housing creates more compact neighbourhoods which promotes more efficient use of existing infrastructure such as pathways, roads, parks and more efficient delivery of services such as water, garbage collection and electricity. It also improves the viability and availability of social infrastructure and community facilities.

The provision of additional housing in close proximity to retail and commercial centres enhances the economic viability of those centres with research showing

We didn't want a big yard and maintenance that comes with it. It was affordable and in our price range.

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that areas that are more walkable are also more economically sustainable.⁴ Local businesses are more likely to thrive when resident populations increase, particularly in areas that have seasonal tourist and visitor economies.

Infill housing can be a sustainable solution to reducing urban sprawl and retaining the green spaces that surround our towns and villages. Some types of infill housing can provide more affordable first homes for young families, or provide older people with opportunities to age in place, close to shops, services, friends and family.

Outcome 3 summarises the findings of the *Infill Housing Study* and identifies the dwelling types that can complement existing streetscapes and neighbourhoods.

The *Infill Housing Study* identified opportunities for new housing in liveable communities within walking distance to existing centres. Based on the study, Raymond Terrace, Nelson Bay, Shoal Bay and Corlette offer the greatest opportunities for new infill housing. Anna Bay and the Tilligerry Peninsula (Tanilba Bay, Mallabula and Lemon Tree Passage) are also identified as suitable locations and Medowie and Karuah have some opportunities for selected types of infill housing.

The *Infill Housing Study* identifies opportunities for planning controls to be amended to facilitate infill housing in certain locations, including where existing controls are considered a barrier to development and where changes can make new development more feasible.

Actions

ACTION	LINKS TO
1. Prioritise planning proposals for future housing that are consistent with adopted planning strategies and meet the criteria listed in Appendix 1	Priority 1.1
2. Undertake an audit to identify the barriers preventing existing identified land supply from being developed	Priority 1.2
3. Consider opportunities for Council to lead actions to unlock existing identified land supply, such as collaborating with State agencies to prepare environmental studies	Priority 1.2
4. Adopt recommendations in the <i>Infill Housing Study</i> to facilitate infill housing in centres, including considering incentives to encourage selected types of infill ²	Priority 1.3

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Priorities

- 2.1 Respond to housing stress
- 2.2 Provide more affordable housing near jobs
- 2.3 Reduce the cost of new housing

Everyone in our community benefits from more affordable housing options. Households with low or median incomes, young people wanting to move out and live close to family, a person on a pension, or key workers who need to live close to their job should have housing options in Port Stephens that suit their needs and budget.

Port Stephens is well placed to attract future residents looking for more affordable housing in comparison to other parts of NSW, particularly Sydney. Port Stephens can offer an attractive 'sea change' or 'tree change' for people moving to the area including 'regional returners' who grew up here and are looking to move back.

House and land affordability can impact on the quality of life, with households suffering from housing stress when they pay more than 30% of their income in housing costs (rent or mortgage). A ratio of 30/40 is often used as a benchmark—that is, if households that fall in the bottom 40% by income spend more than 30% of their income on housing, they are defined as being in housing stress. The consequences of housing stress can include:

- Living with unmanageable levels of debt
- Working longer hours to pay for housing
- Travelling long distances to work or to access essential services
- Living in overcrowded or substandard housing
- Going without essentials such as adequate food, heating, medication or education

The challenge for Port Stephens is to provide a sustainable supply of affordable housing choices at the right price and in the right locations. Many factors can influence property and rental prices, however there are opportunities for Council to plan for more affordable housing by reducing direct and indirect housing costs. This can be done through the local planning system and in partnership with developers, including community housing providers.

Priority 2.1 Respond to housing stress

Sales data indicates that Port Stephens is an affordable option within the Hunter Region, particularly when compared to Lake Macquarie and Newcastle which offer similar coastal lifestyle opportunities. However, in comparison to sales data in Maitland and Cessnock, Port Stephens is considered less affordable.

Port Stephens comprises a higher proportion of very low-income households when compared to the Hunter Region and New South Wales, which is reflective of the high proportion of the population that are of retirement age.

*It's
beautiful
and still
affordable.*

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The *Port Stephens Demographic and Housing Overview Report* shows 14.1% of total households in Port Stephens experienced housing stress in 2016, compared to 13.7% of households in NSW. Of the total rented dwellings in Port Stephens, 41.4% were considered to be experiencing housing stress compared to 14.2% of households with mortgaged dwellings in 2016.

In 2011, there were 4,365 available affordable rental properties in Port Stephens (i.e. affordable for low income renters), representing two thirds of all rental properties in the LGA. By 2016, this supply decreased to 4,099 properties.

Rent in Port Stephens is becoming increasingly unaffordable for low income earners with flats and units currently representing the most affordable housing options in Port Stephens at a median rent of \$340 per week (December 2018).

On the demand side, single and couple households are the dominant household size in Port Stephens and recent survey data indicates a preference for some existing residents to downsize, either to a smaller home or homes on smaller blocks.

Outcome 3 summarises the results of the *Housing Preferences Report* which indicates a preference towards downsizing and remaining in Port Stephens.

Downsizing is perceived as moving from a larger to a smaller dwelling, generally with less bedrooms. However, some older households can prefer to move to a smaller home with the same number of bedrooms, but with fewer or smaller living areas and/or smaller outdoor areas or backyard.

Opportunities to improve housing affordability in Port Stephens may be directed towards these housing preferences by aiming to increase the supply of smaller lots as well as lower-cost dwellings, including duplexes or townhouses.

Satisfying the demand for downsizing can positively impact the supply of larger homes on larger blocks for families looking to buy or rent in the area. If existing residents in large properties are able to downsize and stay in Port Stephens, more dwellings would become available for people moving to the area looking for larger properties.

In areas with households on very low incomes or where mortgage or rental stress is identified, there may also be opportunities for developers and affordable housing providers to better meet demand by providing higher density dwellings such as townhouses and terraces.⁵

Whilst ensuring an adequate supply of new housing can address housing stress, other measures can include making more efficient use of existing housing. The 2016 Census showed high rates of unoccupied dwellings in some coastal parts of Port Stephens and, on average, Port Stephens had nearly double the rate of unoccupied dwellings as Lake Macquarie. These figures reflect the popularity of short term rental housing in Port Stephens which supports our tourist and visitor economy. Unoccupied dwellings can however impact the long term rental market and monitoring the availability of long term rental housing stock across Port Stephens and the rate of short term rental housing will inform any future actions.

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Priority 2.2 Provide more affordable housing near jobs

The top employment sectors in Port Stephens are public administration (including defence), manufacturing, and construction. These types of jobs are closely linked to the major

Outcome 1 aims to ensure future land supply is in locations with convenient access to jobs and town centres

employment hubs of Raymond Terrace, Tomago, Williamtown and Heatherbrae. Significant job growth is expected around Newcastle Airport at Williamtown and Tomago industrial precinct which is likely to drive demand for housing in nearby areas. Other residents in Port Stephens work in employment centres in parts of Greater Newcastle such as Maitland and Newcastle City. To provide housing options near jobs, housing supply should be focused within

centres that have convenient links to major employment areas, such as Raymond Terrace, Medowie and Fern Bay.

Other major employment sectors in Port Stephens include retail, visitor and tourist industries, service industries, health and aged care. These industries are predominant on the Tomaree Peninsula and may create a need for additional housing options in Anna Bay, Nelson Bay, and Salamander Bay.

Of the 27,346 people who work within the Port Stephens LGA, 56% live and work in Port Stephens, while 44% live elsewhere (primarily Newcastle, followed by Maitland and Lake Macquarie). The median distance employed residents in Port Stephens travel to get to work is approximately 18km which is significantly higher than the median distance for other workers in the Hunter Region (nearly 12km), and in New South Wales (11km). This demonstrates a need to focus housing supply in Port Stephens in areas that are closer to current and future jobs.

Given the wide range of industries and employment options available in and around Port Stephens, the housing types to satisfy the demand to live close to jobs is also likely to be diverse.

Providing diverse housing types closer to jobs can boost productivity by reducing the cost of infrastructure, assisting local businesses in securing a workforce, and providing a resident population to support local jobs in Port Stephens.

Outcome 3 aims to facilitate new housing within existing urban areas and to provide for a range of housing types to better cater for diverse lifestyles and needs

Planning for more affordable housing choices includes planning for affordable living beyond the initial cost of buying or renting a property. Affordable living includes the costs of travelling to work and accessing services and facilities such as child care. For example, a home in an isolated location may be cheaper to buy, however the cost of living further from shops, schools, and other services may offset this.

Priority 2.3 Reduce the cost of new housing

Council plans, policies and processes can influence the cost of housing through planning controls, the timing of land release, planning for facilities and services, and through costs related to local planning and assessment such as fees and charges.

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For some time, Port Stephens Council has been committed to reducing the cost of new housing by reducing red tape in the assessment process for new housing.

New technology and integrated approaches to assessment can offer further opportunities to cut red tape and reduce timeframes. Online lodgement and other ePlanning initiatives for integrated assessments may have the capacity to offer faster approvals. The Northern Territory and Australian Capital Territory have found savings in process improvements that integrate zoning and application assessments. Reducing overall timeframes for new housing from identification of residential land to construction approvals can potentially drive down development costs.

In 2017, Port Stephens Council was awarded the NSW Premier's Award for 'Making Housing More Affordable' recognising its work to reduce timeframes for housing approvals. The process improvements can save homeowners up to \$2,000 per application, or around \$2 million per year.

Council policies and requirements, including fees and charges, can add to the cost of housing. Currently there are discounted fees for secondary dwellings (granny flats) to encourage this type of lower cost housing that offers growing households options and facilitates ageing in place.

Actions

ACTION	LINKS TO
5. Consult with the NSW Department of Communities and Justice and the NSW Department of Planning, Industry and Environment and consider opportunities for Council to partner with community housing providers to facilitate the supply of affordable housing	Priority 2.1
6. Review local provisions to encourage more affordable dwellings within walking distance to town centres, including providing development controls for boarding houses and other categories of low cost housing	Priority 2.1
7. Encourage appropriate dwelling sizes in new developments in and around town centres and close to employment hubs	Priority 2.1 and 2.2
8. Consult with Fair Trading NSW to obtain data on short-term rental accommodation and to inform rental supply monitoring in Port Stephens	Priority 2.1
9. Advocate for better transport links from strategic centres to jobs and the region	Priority 2.2
10. Partner with the NSW Department of Planning, Industry and Environment to ensure readiness to adopt ePlanning reforms for integrated assessments and other process improvements	Priority 2.3
11. Investigate process improvements to better streamline assessments and reduce the cost of housing, including: <ul style="list-style-type: none"> - A precinct based approach to water quality and more flexibility for infill development - Clearer requirements and processes for local biodiversity offsets - Integrated assessments for rezonings and development applications 	Priority 2.3

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Outcome 3 Increase diversity of housing choice



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Priorities

- 3.1 Facilitate new housing within existing urban areas
- 3.2 Encourage a range of housing types and sizes
- 3.3 Enable better planning for diverse lifestyles

The future supply of housing needs to deliver homes that can respond to changing communities and places. People transitioning through life stages can require a diversity of housing types, sizes, locations, and price points. Housing that can adapt can be increasingly important as families grow or people choose to age in place.

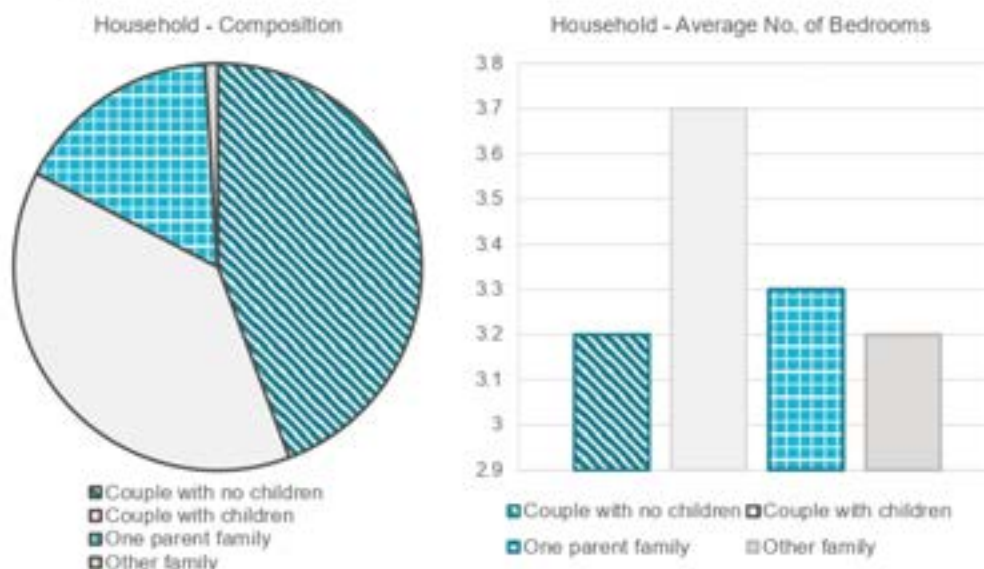
Diverse housing choices build more inclusive communities. Neighbourhoods with homes to accommodate families and households with varying needs and circumstances, sizes and compositions, income and health make stronger communities. It means that as people age they can stay in the same area, or young adults leaving home can still live close to their families and jobs.

Housing diversity means a range of housing types, sizes, tenures and price points are available to meet demand in the right locations. In Port Stephens, the current housing supply is dominated by separate houses on separate lots (74%). More than half of the new dwellings constructed between 2006 and 2016 were separate houses.

Census data shows 57% of households in Port Stephens consist of two or less people and the average number of bedrooms per dwelling in Port Stephens is 3.23.

Port Stephens is also home to an older population with 36.8% of people aged 55 years and over, and the proportion of older residents has increased over time.

Figure 3 Household composition & average No. of bedrooms by Household in Port Stephens



Source: Remplan, 2019, Demographic and Housing Overview Report

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The *Housing Preferences in Port Stephens Report* (Housing Preferences Report) polled some 300 residents to better understand why people move to Port Stephens and whether they are satisfied with the available housing choices.⁶ The survey found there was existing latent demand for more diverse housing types in Port Stephens, including houses on smaller lots, higher density housing types (such as a duplex, or terrace house) and seniors housing (See Table 2).

Table 2 Housing preferences and demand for more diverse housing types

HOUSING TYPE	PREFERRED HOUSING WITHIN BUDGET	CURRENT HOUSING	DIFFERENCE	DEMAND
House on separate lot	72.8%	82.3%	-9.5%	
Small lot (<250m ²)	12.6%	6.7%	5.9%	✓
Small/Medium lot (250-500m ²)	20.7%	13.4%	7.3%	✓
Medium lot (500-800m ²)	36.9%	43.7%	-6.8%	
Large lot (>800m ²)	15.3%	18.9%	-3.6%	
Rural block	14.4%	17.3%	-2.9%	
Semi-detached	6.0%	3.5%	2.5%	✓
Flat, unit or apartment	8.2%	3.5%	4.7%	✓
Seniors retirement village	7.6%	3.8%	3.8%	✓

Source: SGS Economics & Planning, 2019, *Housing Preferences in Port Stephens Report*

Projected future housing demand may also support increasing housing diversity in Port Stephens. The NSW Department of Planning, Industry and Environment have identified growing future demand for dwellings to accommodate smaller households in Port Stephens, projecting that an additional 5,000 dwellings will be required for single and two person households in Port Stephens by 2041.⁷

To more accurately plan for future housing demand, a wider survey may be needed as net migration to the Hunter region is predicted to be around 97,000 people by 2040. Data from a wider sample could more accurately determine the housing needs of people choosing to move to the region and could assist in planning to provide future housing in Port Stephens that can meet the preferences of people moving to the Hunter for jobs or lifestyle changes.

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Priority 3.1 Facilitate new housing within existing urban areas

The Greater Newcastle Metropolitan Plan has set a target for 60% of all new dwellings to be provided within existing urban areas in Greater Newcastle by the year 2036.

With limited remaining greenfield supply, as identified in Outcome 1, *Live Port Stephens* includes outcomes to facilitate additional housing within existing urban areas. Without taking the actions identified, dwelling forecasts in Port Stephens predict that only 18% of the future supply will be provided as infill dwellings.

Existing urban areas are more likely to provide access to the types of infrastructure and community facilities that are needed to support more diverse housing choices. For example living close to local shops, medical or other facilities can be important for older residents and proximity to schools, parks and sporting facilities may be important for young families.

Areas with established populations are more likely to attract and enjoy a higher level of services and facilities. Population density can impact private and public investment decisions such as public transport links and road upgrades and it can be more efficient to provide and maintain infrastructure and services in established areas.

The *Infill Housing Study* has been prepared to identify opportunities for Council to encourage greater diversity of infill housing in the locations that will enhance liveability and cater for the changing needs of the growing population.

The Study investigates opportunities for new infill development in Port Stephens, i.e. the redevelopment of existing urban areas for additional housing such as duplexes, terraces, granny flats etc. It analysed forecast demand and housing supply and identified opportunities to encourage a greater diversity of housing in locations that promote liveable communities.

Six areas in Port Stephens were identified for infill potential because of their proximity to local centres with the characteristics of liveable communities: Raymond Terrace, Anna Bay, Karuah, Medowie, Tanilba Bay and surrounds, and Nelson Bay (excluding the town centre which has already been subject to investigation as part of the *Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program*). Existing development constraints, including planning controls were tested in these areas and a financial feasibility assessment carried out to determine whether redevelopment is feasible and achievable.

Infill housing and higher housing densities can be perceived as imposing new developments with larger footprints and taller buildings. The *Infill Housing Study* has taken a place-based approach to ensure that proposed development types suit the existing local character of

Outcome 1
Dwelling Forecast Locations
(2019-2040)



Outcome 4 plans for communities with convenient access to essential services and infrastructure.

Communities are more liveable when they are supported by infrastructure and services that support the lifestyles of its residents.

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each suburb. Building types that will increase density but will integrate with existing low rise streetscapes and neighbourhoods have been included in the Study:

TYPOLOGY	EXAMPLE
Granny flat or secondary dwelling	
Terraces and townhouses (Multi-dwelling housing)	
Duplex or two attached homes (Dual occupancy)	
Manor house (Three or four flats, no more than 2 storeys)	
Residential flat building	

The *Infill Housing Study* identified opportunities to make infill housing more achievable and makes recommendations to incentivise the consolidation of lots, invest in infrastructure in local centres such as parks and footpaths to support higher densities and make changes to planning controls to both make development more financially feasible as well as to promote design quality.

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Priority 3.2 Encourage a range of housing types and sizes

The Greater Newcastle Metropolitan Plan requires 25% of lots in new housing areas to be capable of accommodating small lot housing or multi dwelling housing. Small lot housing typically refers to homes specifically designed to be accommodated on smaller lot sizes, generally between 200-450m². Multi dwelling housing includes three or more attached or detached townhouses and terraces.

In Port Stephens, new housing has generally been provided on lots of 500m² and above. The data from the *Housing Preferences Report* indicates that the supply of these larger lots is generally meeting the current demand. The data also indicates there is current demand for a wider range of lot sizes, including lots less than 500m² and lots less than 250m² to cater for different households. There may be opportunities for redevelopment sites in existing urban areas to satisfy this demand and also opportunities for urban release areas to offer a range of housing types and sizes.

Case Study: Small lot housing in an urban release area at Pacific Dunes, Medowie

Pacific Dunes in Medowie is home to some of the smallest housing lots in Port Stephens, with some homes set on lots less than 300m².

Figure 4 Aerial views of Pacific Dunes, Medowie



This new housing area provides diverse housing in a landscape setting, close to a wide range of facilities, and a short distance from the Medowie town centre. The design of the Pacific Dunes development responds to changing housing needs and wants by providing easy to maintain homes, access to high quality facilities and services and a sense of community.

Figure 5 Homes in Pacific Dunes, Medowie



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The way people live and use their homes is changing, as demonstrated by the survey responses in the *Housing Preferences Report*. Households with singles, or couples who both work may not have time to maintain large backyards synonymous with the traditional Australian dream of a house on a quarter acre block.

While demand for traditional housing areas remains strong, some homeowners have been willing to trade traditional backyards and large lot sizes for location, convenience, and shared open space. Affordability is another key driver in this segment of the housing market, with smaller lots in the Pacific Dunes development selling for up to 30% less than larger lots in the estate.

Lifestyle also impacts the success of small lot housing, with precincts in Pacific Dunes offering residents access to a clubhouse with restaurant and bar, a swimming pool, tennis courts and a community garden. These facilities provide recreation and entertainment options as well as opportunities for socialising and building connections with neighbours.

Outcome 4 plans for neighbourhoods that promote a sense of place and belonging, where residents can grow connections with their neighbours.

Economies of scale in providing these facilities can reduce costs for homeowners and can also improve energy and water efficiency. At Pacific Dunes, renewable power generation and storage and other sustainability innovations demonstrate how small lot housing developments can result in a more environmentally sustainable form of development.

Priority 3.3 Enable better planning for diverse lifestyles

Almost 50% of the residents surveyed as part of the *Housing Preferences Report* nominated the environment and lifestyle as the main reasons for choosing to live in Port Stephens. A further 25% said they chose Port Stephens because they could live close to family, friends and work. Lifestyle factors can significantly influence housing choices and planning for diverse types of future housing in locations where people want to live can ensure housing options in Port Stephens will meet future demand.

Housing types that suit particular needs and preferences include:

- **rural residential housing** offers a rural outlook, peace and seclusion
- **small lot housing** offers downsizers more convenient living or more affordable housing
- **shop top housing** can provide residents convenient access to shops, medical services, restaurants, and jobs
- **group homes** provide permanent accommodation for people with a disability
- **lifestyle villages and communities** offer convenience and exclusive use of shared facilities and can connect residents of a similar age

Actions to better plan for some of these housing types have been listed in other Outcomes where a need has been identified.

Outcome 1 includes actions and criteria to better plan for new rural residential development.

Outcome 2 identifies actions that facilitate more affordable housing choices.

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One of the more popular types of housing development to occur in Port Stephens over the last decade has been lifestyle villages and communities, where residents share communal recreation and other facilities. Lifestyle villages and communities can offer residents convenient, attractive and potentially more affordable housing options. They can appeal to a wide variety of homeowners. Fly in and fly out workers and Williamstown RAAF workers can be attracted to the convenience and security of homes they can lock up and leave for long periods. Some models of ownership offer significant financial benefits for residents that are retirees and they can enable independent living in close knit communities.

We want independent living. Definitely not a nursing home. ”

Lifestyle villages and communities can be subject to a range of different land tenures and ownership models, approval and assessment pathways and different regulatory frameworks. Lifestyle villages can be set up as community title developments (such as Pacific Dunes, Medowie), strata title multi-unit developments, or residential land lease communities (such as Latitude One, Anna Bay). Lifestyle villages can be marketed solely to seniors, down sizers or retirees, or can be suited to both families and couples (Seaside Estate, Fern Bay). Communities may be gated from passing traffic or include connections to surrounding streets and paths. Some communities can be almost self-sufficient with a high standard of facilities, shops and services located on-site such as a medical centre, supermarket and hairdresser.

A complex legal and State planning framework means local government can have a limited effect on policy changes to influence and shape where and how lifestyle villages and communities develop. In 2015, the State Government exhibited a discussion paper proposing reforms and identifying the changing nature of lifestyle villages and communities, recognising they can provide an important source of diverse housing stock.⁸

The State Government's Discussion Paper proposed changes to:

- Support lifestyle villages in the right locations
- Provide greater planning certainty and clarity
- Promote a range of housing choices
- Encourage ongoing innovation in housing choices

In advance of any State reforms, locational criteria can guide assessments of site suitability, for example villages and communities located close to centres can satisfy walkability standards for liveable communities:

- 5 minute walk (400m) of a town or neighbourhood centre zoned B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core or B4 Mixed Use; or
- 5 minute walk (400m) of bus stops with frequent services to local centres; or
- 10 minute walk (800m) of local centres.

If this criteria cannot be met, lifestyle villages and communities may be located where the criteria in Appendix 1 has been addressed and where the village or community will have:

- reticulated water and sewer;

Outcome 1 provides criteria for all new housing proposals in Port Stephens

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- indoor and outdoor recreation facilities adequate for the number of proposed residents such as bowling greens, tennis courts, golf course, swimming pool, or off leash dog park;
- community facilities that promote gathering and social connections such as a restaurant, community hall, or community garden; and
- access to bus services providing frequent trips to local centres and shops.

To ensure high quality design outcomes, development controls could also provide further guidance for some aspects of lifestyle villages, in particular to encourage place making and landscaping, or to address visual impacts, access, emergency management and other master planning principles.

Actions

ACTION	LINKS TO
12. Advocate for DPIE to co-ordinate housing preferences data for people moving to and within the Hunter to inform planning for future housing types to satisfy demand	Priority 3.1
13. Implement the recommendations of the <i>Infill Housing Study</i> ² and create opportunities for Council to encourage a greater diversity of infill housing around local centres, this may include: <ul style="list-style-type: none"> ○ Incentives to encourage the amalgamation of sites. ○ Amendments to planning controls to improve development feasibility and maintain design quality and amenity. ○ Investment in local centre infrastructure such as shared paths, street trees and town centre renewal. 	Priority 3.1
14. Encourage provision of small lot housing to enable more efficient and sustainable development outcomes in urban release areas	Priority 3.2
15. Advocate for State reforms to assist councils in better planning for lifestyle villages and communities	Priority 3.3
16. Review local provisions to better plan for lifestyle villages and provide controls to ensure high quality design outcomes and liveable communities are created	Priority 3.3

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- 4.1 Housing enhances local character
- 4.2 Communities are connected
- 4.3 Grow connections between people

The concepts that make up 'liveability' are strongly reflected in the responses gathered from the survey undertaken as part of the *Housing Preferences Report*. The survey shows people currently living in Port Stephens value the unique environment and diverse lifestyles on offer. The main reasons provided for moving into the area include family, work, and retirement. Other reasons focused on the natural features of the area and the convenience of the location. These liveability concepts can help define the local character of an area and contribute to a sense of place and belonging, which promotes individual health, enjoyment and wellbeing.

Local government can facilitate more liveable communities by planning for quality public spaces and built environments, providing sport, recreation, and community facilities, enhancing the natural environment, and supporting local economies and employment.

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Council can directly contribute by creating parks, cycle ways, bus stops, street trees and gardens to enhance the quality of places and can support communities through events, capacity building, community grants and advocacy.

Case Study: Boomerang Park, Raymond Terrace

Boomerang Park has recently been transformed into a signature recreational hub and regional recreation destination. The skate park, playground, Men's Shed, croquet court, and dog exercise area provide activities and places for young and old to meet, interact and enjoy. It is also a successful community event location, hosting the Illuminate Festival in 2017.

It has become a vibrant community place that caters for everyone, increases social connections and is part of what makes Raymond Terrace a great place to live.

Figure 7 Lantern Parade at the Illuminate Boomerang Park Festival 2017



Measuring and monitoring the liveability of places can create a better understanding of the social, economic and environmental needs and values of a community and result in better informed decisions. Monitoring liveability can influence planning and infrastructure investment decisions and make real differences to improve the quality of life for residents.

Priority 4.1 Housing enhances local character

Local character is distinctive and differentiates one area from another. It includes all aspects of the built environment, as well as the sense of place, and how people respond to that place. Local character might reflect cultural or social identities and values, it can be shaped by history, landscape and location, or it might be aspirational and reflect desires and future priorities. Local character can create a sense of belonging and community.

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The NSW Department of Planning, Industry and Environment has developed a guideline and toolkit to assist councils preparing local character statements that enable good planning and design.

Housing can have a significant impact in defining the local character of an area and can be planned and designed to contribute to and enhance the character of a place. The Port Stephens Local Strategic Planning Statement includes actions to prepare local character statements to guide the delivery of new housing in locations that promote liveable communities.

The *Infill Housing Study*² identifies opportunities for Council to encourage greater diversity of housing types in locations that will enhance liveability and cater for the changing needs of a growing population. Local character statements for these areas can ensure new development contributes positively to streetscapes and amenity as these areas grow and change.

To support high quality urban design, Port Stephens Council has established an Urban Design Panel to provide independent design advice on significant developments. This Panel could also provide advice on planning to enhance local character during the development of local area strategic plans and other local plans.

Outcome 3 summarises the findings of the *Infill Housing Study* which takes a place based approach to identify housing types that can complement and enhance the existing local character of selected areas in Port Stephens.

Priority 4.2 Communities are connected

Strong communities have the capacity to meet people's needs as their families grow or circumstances change. Maintaining and improving liveability requires housing, infrastructure and services in the right locations to ensure residents remain connected to the facilities they need and value.

Providing housing with convenient access to essential services is an important influence on quality of life. Access to services, such as health and medical care, education and child care, is one of the key measures common to most liveability indexes and contributes to individual health and wellbeing and community cohesion.

Convenient access, including public transport and walking and cycling paths contributes to more active and vibrant communities. Facilities and public transport services provided within walking distance of housing can improve physical health and wellbeing, increase independence for older people, and promote sustainability by reducing traffic and pollution.⁹ The built environment can be designed to enable people to come together and use facilities within their local area through the provision of pathways, end of trip facilities for cyclists, and public transport facilities such as bus shelters. These facilities can connect people to employment or provide healthy environments for play.

I can walk everywhere, I like the cafes and restaurants and it's a great community.

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Council will commence community consultation on a Smart City Blueprint in 2020 to map how data and innovation can support more liveable communities in Port Stephens.

Over the next 20 years digital infrastructure and innovation will also contribute to making communities in Port Stephens more liveable. Smart city infrastructure has the capacity to make communities more inclusive, safe, resilient and sustainable. Council will have opportunities to invest in technology and data management to improve energy efficiency,

road safety, responsible water consumption, health and wellbeing, and connectivity. There will be future opportunities to upgrade existing digital and physical infrastructure to facilitate community access to technology and training, sharing of information, and experiences.

Priority 4.3 Grow connections between people

Never been happier with the community and atmosphere.

A strong sense of belonging, to both place and people, sustains more vibrant and resilient communities. Mental and physical health, enjoyment, and wellbeing are supported when social connections are strong.

Our public spaces can be more important than private developments in defining the local character of a place and as platforms for building a sense of community and expressing community identity. Planning for the public domain, the spaces in our centres where people meet, gather, sit or pass through, impacts the feel of a neighbourhood and the connection residents have to their home and their community.

Collaboration in planning for improved public spaces can build social connections and empower communities to create places that support their needs, interests, and values. Community led placemaking, when a community chooses and makes physical changes in their neighbourhood, can create strong connections between the people involved and more attractive and social spaces.

The 7 Day Anna Bay Makeover was a collaborative community initiative sponsored by Council, local businesses and community members. Volunteers from Anna Bay and surrounding neighbourhoods planned and executed projects to revitalise their public spaces and reflect the local character of their town. A hands on approach to placemaking can better connect people to place, strengthen communities and build long lasting friendships and connections.

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Figure 8 Volunteers during the 7 Day Anna Bay Makeover



In other town centres, civic pride groups participate in working bees, garden maintenance and other placemaking initiatives working with Council, community members and local business people to make their public spaces more welcoming, functional and attractive.

Community events are placemaking activities that can engage residents to participate in community life, visit and explore community places and facilities. Events can bring people together, providing opportunities for neighbours to meet, connect, volunteer or participate. Events can contribute to the culture and character of a place, they can reimagine or reinvent public spaces, or attract visitors to boost local economies.

Actions

ACTION	LINKS TO
17. Adopt a Liveability Index to map, measure and monitor liveability in Port Stephens	Priority 4.1, 4.2 and 4.3
18. Prepare local character statements to guide the delivery of new housing in Raymond Terrace, Nelson Bay, Shoal Bay, Corlette, Anna Bay, Tanilba Bay, Lemon Tree Passage, Karuah and Medowie	Priority 4.1
19. Refer relevant strategic and local area plans to the Urban Design Panel for independent advice	Priority 4.1
20. Review opportunities to provide active transport facilities such as pathways and end of trip facilities for cyclists in centres and employment hubs	Priority 4.2
21. Review access to essential services in rural areas, such as child care centres	Priority 4.2

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Implementation, monitoring and reporting

The timing for delivery and prioritisation of actions will be informed by community and stakeholder consultation during the exhibition of *Live Port Stephens*. Some actions may be designated as 'ongoing' to reflect a change to a process and others will require funding from sources that could impact the timing of delivery, such as grants and local infrastructure contributions. An Implementation and Delivery Plan will be published on adoption of *Live Port Stephens*.

Some monitoring has been included in specific actions, for example adopting a tool to measure and monitor liveability in Port Stephens.

Monitoring of Outcome 1 ('Ensure suitable land supply') will involve maintaining annual data for zoned land and development approvals. This data will be shared with the NSW Department of Planning, Industry and Environment's Hunter Urban Development Program.

Council will review *Live Port Stephens* should an amended Local Strategic Planning Statement (LSPS) identify a need to update the document to ensure it addresses community needs, Council priorities and relevant legislation.

The actions will be reviewed and updated if new data or new State plans and policies demonstrate a need to respond. For example, if new census data is released, new housing preferences data becomes available, employment projections change, or the Hunter region's strategic plans are updated.

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Appendix 1 – Urban Housing Criteria

The following assessment criteria outlines key considerations to be addressed by a proponent prior to lodging a rezoning request for urban housing.

The criteria aims to prioritise urban housing on land that is relatively unconstrained. Rezoning requests on constrained land will need to be lodged with additional supporting documentation to demonstrate the land is suitable for residential development.

LAND WHERE THE CRITERIA APPLIES

- Land that is currently zoned for non-residential purposes and is proposed to be zoned for urban housing (e.g. R1 General Residential, R2 Low Density Residential and R3 Medium Density Residential).
- The criteria do not apply to rezoning requests for rural residential housing (refer to the Rural Residential Criteria in Appendix 2).
- Note, *land* means the extent of land proposed to be used for residential purposes.

CRITERIA

Aircraft Noise

- The land is below the 25 Australian Noise Exposure Forecast (ANEF) contour. Proposals on land affected by ANEF contour 25 or above are "unacceptable" for residential purposes under AS 2021-2015.

Bushfire

- Rezoning requests on land identified as bush fire prone (on Council's Bush Fire Prone Land Map) must demonstrate consistency with the strategic principles contained within Planning for Bush Fire Protection 2019.

Flooding

- The land is not categorised as Flood Planning Area. Rezoning requests for land in a Flood Planning Area must be lodged with a flood study demonstrating the land is suitable for development.

Land Slope

- The land has a slope of less than 18 degrees. Rezoning requests for land that has a slope greater than 18 degrees must be lodged with a bulk earthworks plan demonstrating that the final landform will not exceed 18 degrees, and a geotechnical report demonstrating that the final landform will achieve an appropriate level of stability.

Biodiversity

- The land is not identified as containing high biodiversity value, as per the NSW Department of Planning, Industry and Environment's Biodiversity Values Map published on the NSW Department of Planning, Industry and Environment website. Rezoning

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requests for land identified as containing high biodiversity value must be lodged with a Biodiversity Development Assessment Report.

Mineral Resources

- The land is greater than 500 metres from any known mineral resource (rezoning requests for land within 500 metres of a known mineral resource must be lodged with evidence of consultation with the NSW Department of Planning, Industry and Environment and any relevant operator).

Non-Aboriginal Cultural Heritage

- Rezoning requests that are likely to impact on an item of environmental heritage (identified in the Port Stephens Local Environmental Plan 2013) must submit a Statement of Heritage Impact that considers the impact on heritage values, including the setting of the items and any archaeological remains.

Aboriginal Cultural Heritage

- Rezoning requests should include an initial assessment of the likelihood of Aboriginal cultural heritage values including:
 - a search of the Aboriginal Heritage Information Management System (AHIMS);
 - determination of whether the sites include landscape features that indicate the likely presence of aboriginal objects;
 - site inspections; and
 - consultation with the Aboriginal community.

Drinking Water Catchment

- Rezoning requests on land within a drinking water catchment must be able to be connected to reticulated sewer or able to demonstrate a neutral or beneficial effect (NorBE) on water quality in accordance with Hunter Water Corporation requirements.

Infrastructure and Services

- The land is able to be serviced by essential infrastructure. Rezoning requests must be lodged with evidence demonstrating the connection of essential services to the land is economically feasible. On land remote from existing essential infrastructure, an infrastructure delivery strategy is to be submitted.

NEXT STEPS

- Rezoning requests must be prepared in accordance with the NSW Department of Planning, Industry and Environments' *Guide to preparing Planning Proposals* and the Port Stephens Council *Rezoning Request Guide* available on Council's website.

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Appendix 2 – Rural Residential Criteria

The following criteria outlines the key requirements and constraints that require consideration in the preparation of rezoning requests for rural residential development.

There are three (3) types of criteria:

- *Locational Criteria* – where land is appropriately located to be considered for a rural residential rezoning request. Rezoning requests for land that is inconsistent with this criteria will require extensive justification to be lodged with any proposal;
- *Exclusionary Criteria* – where land is considered not suitable for development. Rezoning requests for land that is inconsistent with this criteria will require extensive justification to be lodged with any proposal; and
- *Management Criteria* – where land is constrained and additional supporting documentation is required to be lodged with a rezoning request to determine whether development is appropriate.
- Note, *land* means the extent of land proposed to be used for rural residential purposes.

LOCATIONAL CRITERIA

The land must meet the following locational criteria to be considered for a rural residential rezoning request:

- Zoned RU1 Primary Production, RU2 Rural Landscape, E3 Environmental Management, E4 Environmental Living;
- Located a minimum of 800 metres from existing RU5 Rural Village, R1 General Residential or R2 Low Density Residential zoned land; and
- Any part of the landholding is located within 800 metres of existing R5 Large Lot Residential zoned land.

EXCLUSIONARY CRITERIA

Land that is subject to any of the following criteria will require extensive justification to be lodged with a rezoning request:

- Areas identified by, or in proximity to an area identified by, a local, regional or State strategic plan for potential urban housing, including opportunities identified on the Housing Opportunities Map or land that demonstrates consistency with the criteria in Appendix 1.
- Land within a 2km distance from existing or planned major employment areas.
- Slopes greater than 18 degrees slope instability and clearing of vegetation is restricted under State legislation.
- Class 1 and 2 acid sulphate soils, because of the high risk of exposing acid soils during dwelling and infrastructure construction.
- Land within the Flood Planning Area as defined in the Port Stephens Development Control Plan 2014.

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- High biodiversity value land including coastal wetlands or any coastal lakes identified under the State Environmental Planning Policy (Coastal Management) 2018.
- Noise exposure areas within an ANEF 25 or greater.
- Land identified as Important Agricultural Land as defined by the Biophysical Strategic Agricultural Land (BSAL) mapping prepared by the State Government for the purposes of Strategic Regional Land Use Planning.
- Land located within 500 metres of known extractive industries, quarrying or mining.
- Land identified by the State Government as having known mineral resource potential.

MANAGEMENT CRITERIA

Additional supporting documentation is required to be lodged with a rezoning request if any of the following criteria applies.

Flooding

- Rezoning requests on land that has the potential to be isolated in flood events, must demonstrate access to evacuation facilities via a public road that is given 24 hours warning of flood isolation.

Bushfire

- Rezoning requests on land identified as bush fire prone (on Council's Bush Fire Prone Land Map) must demonstrate consistency with the strategic principles contained within Planning for Bush Fire Protection 2019.

Environmentally Sensitive Land

- Rezoning requests on land identified in coastal management areas, defined in the State Environmental Planning Policy (Coastal Management) 2018, must be justified by a study or strategy prepared to demonstrate consistency with the SEPP.
- Rezoning requests on land that includes koala habitat areas and/or corridors, significant native vegetation, endangered ecological communities, threatened species or habitats must submit a Preliminary Ecological Assessment unless the proposed disturbance area requires the lodgement of a Biodiversity Development Assessment Report.
- Rezoning requests subject to the above must demonstrate how the proposal will contribute to the conservation of important biodiversity values or the establishment of important biodiversity corridor linkages.

Non-Aboriginal Cultural Heritage

- Rezoning requests that are likely to impact on an item of environmental heritage (identified in the Port Stephens Local Environmental Plan 2013) must submit a Statement of Heritage Impact that considers the impact on heritage values, including the setting of the items and any archaeological remains.

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- Rezoning requests should include an initial assessment of the likelihood of Aboriginal cultural heritage values including:
 - a search of the Aboriginal Heritage Information Management System (AHIMS);
 - determination of whether the sites include landscape features that indicate the likely presence of aboriginal objects;
 - site inspections; and
 - consultation with the Aboriginal community.

Drinking Water Catchment

- Rezoning requests on land within a drinking water catchment must be able to be connected to reticulated sewer or able to demonstrate a neutral or beneficial effect (NorBE) on water quality in accordance with Hunter Water Corporation requirements.

Rural Land Resources

- Rezoning requests on land within a 1km buffer from existing agricultural industries (e.g. poultry farms, aquaculture) measured from property boundary to property boundary are required to provide expert reports to establish appropriate setbacks. These reports may relate to, but not be limited to, noise, odour, visual amenity and biosecurity risks.

Scenic Amenity

- Rezoning requests on land within a high or very high landscape area, as defined in the Port Stephens Rural Lands Study (2011), must submit a visual impact assessment.
- Rezoning requests are to identify an appropriate buffer zone between housing and existing road corridors to prevent clearing and protect scenic qualities.

Infrastructure and Services

- Rezoning requests must demonstrate that the land:
 - will be accessed via a sealed road;
 - will not result in the creation of direct access to a State road;
 - will not create additional demand for unplanned State infrastructure upgrades;
 - will be connected to reticulated power supply; and
 - is able to dispose of on-site sewage in accordance with Council's Development Assessment Framework (DAF) for the management of on-site sewage management, which includes performance standards and recommendations about appropriate areas.

NEXT STEPS

- Rezoning requests must be prepared in accordance with the NSW Department of Planning, Industry and Environments' *Guide to preparing Planning Proposals* and the Port Stephens Council *Rezoning Request Guide* available on Council's website.

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Endnotes

1. Remplan, 2019, Port Stephens Demographic and Housing Overview Report
(Available on Port Stephens Council website)
2. CityPlan, 2015, draft Port Stephens Rural Residential Strategy
3. Tract, 2019, Port Stephens Infill Housing Study
(Available on Port Stephens Council website)
4. Heart Foundation, 2011, Good for Busine\$\$
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6. SGS Economics & Planning, 2019, Housing Preferences in Port Stephens Report
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7. NSW Department of Planning, Industry and Environment, 2019, NSW population and household projections
8. NSW Department of Planning and Environment, 2015, Improving the Regulation of Manufactured Homes, Caravan Parks, Manufactured Home Estates and Camping Grounds – Discussion Paper
9. Hunter New England Population Health, 2012, Liveability Assessment Tool

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